EIRENARCHA,

OR

OF THE OFFICE

of the Iustices of Peace, in foure Bookes.

Reuiſed, corrected, and enlarged, in the eighth yeere of the peaceable Raigne of our moſt gracious King,

Iames,

First collected by WILLIAM LAMBARD of Lincolnes Inne Gent.

Hæ tibi erunt artes, pacique imponere morem.

LONDON,
Printed for the Companie of Stationers.
1614.

Cum Priuilegio.

OF THE OFFICE

OF

EISENMARCHA

THE PROHEME.

TO write of the Office & dutie of Iustices of the Peace, after M. Marrow (whose learned reading in that behalfe made 18. yære of K. H.7. is in many hands to be séene) & after the reuerend Iustice Fitzherbert (who published an excellent treatise thereof, which is yet euery where to bee had) may at the first seeme no lesse vnaduisedly done, then if a man should bring Owles to Athens, (as the prouerb is) or to carry sticks into a growing wood or copise. Neuertheless, if it be considered, that since their time, this Office is charged with many Statutes, which were not made when their writings were penned: and if it be weighed also, that sundry things in them had then the force of Law, which now at this day they haue lost by alteration of like authoritie: It cannot be thought altogether in vaine, to confer their writings with the Booke cases, and Statutes

that haue arisen of later times, & out of them all to collect some one body of discourse, that may serue for the present age wherein wée now liue, and somewhat further the good endeuour of such gentlemen, as be not trained vp in the continuall studie of the Lawes.

In which doing, as I meane to rob no man of his right, but to yéeld to each one the due praise of his owne, least (as the Poet said)

Moueat Cornicula risum,
Furtiuis nudata coloribus:

So, if I my self shalbe found here and there to dissent in opinion from other mẽ, I desire that my good meaning be not euil interpreted, that my allegations and reasons be weighed indifferently, and that the respect of my person bring no preiudice to the thing in question.

The diuision of this worke.

The whole labour I haue thought good (for helpe of the Readers memorie) to breake into foure seuerall Bookes, intending to spend the first in a summary consideration & Theorique of the whole office belonging to this Iustice: and in the other three to set forth the whole practise of the same, aswell at home, as at the Sessions: dealing in the second, with those causes which one Iustice alone; & in the third with those which moe Iustices, may vndertake without the helpe of the Sessions, of the peace: and in the fourth, handling such matters, as haue regard onely to those Sessions.

THE FIRST BOOKE,

Containing a Theorique (or insight) of the Office of the Iustices of Peace.

What Iustices of the Peace be, and why they are called Iustices.

Cap. I.

IVSTICES of the Peace, be Iudges of Record, appointed by the King to bee Iustices within certaine limits, for the Conseruatiõ of the Peace, & for the executiõ of sũdrie things comprehended in their Cõmission, and in diuers lawes committed vnto their charge.

A definition (or description) of Iustices of the peace.

These and many other Iudiciall Officers in our law, be called Iustices (*per Metonymiã subiecti*) because they do (or should do) Law, and Iustice. For in many old histories, the chiefe Iustice of England is termed *Capitalis Iustitia*, and *Prima* (*post Regem*) *in Anglia, Iustitia*: and the originall writs that are in Master Glanuiles Book (which was writtẽ vnder the raign of K. H. 2.) haue this forme, *quod sit corã me, vel Iustitijs meis*: And this (no doubt) was done of

Why they bee called Iustices.

especiall purpose, and to the end, that the mention of their name, should put them in mind of their Office, & should continually (as it were) solicitie them to administer Iustice, for whose sake they were appointed.

But in the daies of K. H. 3. M. Bract. (who reduced the bodie of our Law into Latin, and therein imitated the methode of the Ciuill Lawiers) changed the word *Iustitijs* into *Iustitiarijs*, (how Latin like, let thē iudge that can skil) and setteth downe the writs accordingly, *coram Iustitiarijs nostris*. Since which time, not onely al our writs that command appearance before the Iustices at Westminister, doe vse the word *Iustitiarijs*, but all Commissions of Sewers, of the peace, of Oyer and Terminer, and such like, doe obserue the same forme also.

And of this it commeth, that M. Fitzherbert (in his treatise of the Iustices of Peace) calleth them Iusticers, (contracly for Iusticiars) and not Iustices, as we commonly (and not altogether vnproperly) doe name them.

Of

Of the signification of this word *Peace.*

Cap. II.

OF the Latine word *Pax*, the Normās framed their *Paix*, & we (out of that) our Peace: the which hath sundry significatiōs both in the holy Scripture of God, and in the lawes of our Country: For there is an inward, & an outward Peace. And this inward Peace, is either good, or euill: First then, there is *pax apud Deum*, that is to say, our reconciliation made with God the Father, by the obedience of Christ his sonne our Sauiour: for he is *pax nostra*, and hath appeased the wrath of God for our sinnes.

Peace hath many significations.

Out of this proceedeth another inward peace named the peace of Conscience, for that our conscience is (by faith in Christ) at Peace both with God and it selfe. The euill inward peace is that same mundane peace, whereof our Sauiour Christ spake, saying: *Pacem do vobis, non quemadmodum mundus dat.* And this peace the kingly Prophet Dauid calleth *Pacem peccatorū*, because it is no better then carnal security.

The outward Peace, hath respect to other men, & that is of two sorts also: the one is opposed (or set) against all maner of striuing and contention, whether it be in countenance, gesture, word, or worke: of the which S. Paul

spake to the Romans, in these words, *Si fieri potest, quantũ in vobis est, cũ omnibus hominibus pacem habetote:* And in the same meaning, the latine men say, *Pace tua*, by your good leaue, or fauor, without your offence, or displeasure. The other is onely an abstinence from actual force, and offer of violence, and is rather contrarie to *arma, prælium*, and *bellum*, (which cannot be without force or armes) then it is to *lis, pugna*, or *certamen*, which (as Laurence Valla confesseth) may be *nudis verbis, & citra arma*. And hereof also our Sauiour Christ spake, when he said, *Non veni, vt mitterem pacẽ, sed gladium.*

Peace in our Law.

The Law of our Realme likewise vseth the word Peace diuersly, but yet so, as it is altogether occupied about these outward Peaces. For as Cicero said of frauds, *Aliter leges, aliter Philosophi, tollunt astutias: leges quatenus manuenere res possunt, Philosophi quatenus ratione & intelligentia:* euen so may I truely affirme, that (in this matter of Peace) the Law of God (which is the onely true Philosophie) respecteth the minde and conscience, although the Lawes of men doe loke but to the bodie, hands, and weapons.

Sometimes therefore the word Peace is taken for Protection, or defence: as where M. Bracton calleth the writs of Protectiõ, *breuia de pace:* Sometimes (as it séemeth to me) it is taken of Rights, Priuiledges, & Liberties, as in the oath of the King at his Coronation, he

sweareth

sweareth *Seruare Ecclesiæ Dei, Cleri, & populi, pacem ex integro*: the meaning wherof is, (as I suppose) that he will maintaine each degrée & estate of his subiectes, as well Ecclesiastical, as Temporal (for *populus* there comprehẽdeth all the Laitie) according to their seueral customs Lawes and priuiledges.

And sometimes it is taken for a withholding (or abstinence) from that iniurious force and violence wherof I spake before. And this is that which is most commonly vnderstood by the word Peace, in our law: and for the maintenance hereof chiefly were these Wardens and Iustices of the Peace first made and authorised.

Peace for Iustices of the peace.

For, Iustices of the Peace were not ordained (as some haue thought) to the end to reduce the people to an vniuersall vnanimitie (or agrœment of minds) which is indéed a thing rather to be wished for, then to be hoped after: Neither is it any part of their office, to forbid lawful suites and controuersies (which neuertheless be disagrœments of minds) but to suppresse iniurious force and violence, moued against the person, his goods, or possessions.

And that this may appeare to be the minds of that king which first created these Wardẽs or Iustices of the Peace (I meane king Edward the third) let me shewe you the verie writ that he (in the first yere of his Raigne,

and

and not many weekes before the Parliament, in which the Gardeins of the peace, who afterward obtained the name of Iustices of the Peace were first ordained) did send to the Sherifes of all the Shires in England, bearing this forme.

Th. Walsingham in histo. pag. 107.

EDwardus, *Dei gratia Rex Angliæ, Dominus Hyberniæ, Dux Aquitaniæ, vicecomiti Kanc. salutem. Quia Dom. Edwardus, nuper Rex Angl. pater noster, de communi assensu Prælatorũ, Comitum, Baronum, & aliorũ Magnatum, necnon Communitatũ totius regni prædicti spontanea voluntate se amouit à regimine dicti regni, volens & concedẽs quod nos (tanquam ipsius primogenitus & Hæres) ipsius regni gubernationem & Regimen assumamus: Nosque ipsius patris bene placito in hac parte, de cũsilio & auisamento Prælatorũ, Comitum, & Baronũ prædictorũ annuentes, gubernacula suscepimus dicti regni, & fidelitates & homagia ipsorũ Prælatorum & Magnatum recepimus, vt est moris: Desiderãtes igitur pacem nostrã pro quiete & tranquilitate populi nostri inuiolabiliter obseruari, Tibi præcipimus, quod statim (visis præsentibus) per totam Balliuam tuam Pacem nostrã facias publicè proclamari, vniuersis & singulis ex parte nostra inhibendo sub pœna & periculo exhereditationis & amissionis vita & membrorũ, ne quis dictã Pacem nostram infringere seu violare præsumat: sed quilibet actiones & querelas absque violentia quacunque prosequatur, secũdũ leges & cõsuetudines regni nostri: nos enim para-*

ti sumus, & semper erimus, omnibus & singulis cõquerẽtibus, tã diuitibus quàm pauperibus, in curijs nostris plenã iustitiã exhibere. Teste meipso Calendas Februarij, die dominica, in vigilia Purificat. &c.

This Writ I haue the rather chosen to set downe at large, because it containeth a faire shew of a fowle shift, I meane, his attaining to the Crowne, by the depriuation of his own father.

But (for the present purpose) by this Writ it is manifestly declared, that the Peace which he meant was not an vniting of minds, but a restraining of hands: which is (in a maner) all one with that which Tullie writeth in his Oration *pro Sestio*, where he setteth *Vis* and *Ius* one against the other: and it agreeth wel with that description and diuision of *Vis*, which M. Bracton maketh (*li.4.ca.4.*) saying, *Vis est, quotiẽs quis (quod sibi deberi putat) non per Iudicẽ reposcit: Est autẽ interdum armata, interdũ inermis.* According to the which meaning also, the old Statute of Westminster the first (cap.1.) said, Let the peace of the Land bee maintained in all points: and common right be done to all as well poore as rich: Thereupon likewise saith the Statute (1.R.2.c.2.) Let the peace be well and surely kept, that the Kings subiects may safely go, come, and abide, according to the law of the Realme: and that Iustice and right be indifferently ministred to euery subiect.

Finally the statutes of 2.R.2.ca.4. 1.H.4.

cap.

cap. 1. and 7. H. 4. cap. 1. do al (in plaine speech) couple the maintenance of the Peace, with the pursuing of suits, as things that may right well stand together. And therefore, I conclude, that this furious gesture, & beastly force of body, or hands (and not euery contention, suit, and disagreement of minds) is the proper subiect and matter, about which the Office of the Iustices of the peace is to be exercised.

Iustices of the peace, be meet to pacifie suits.

Howbeit I write not this, as though I would not haue a Iustice of the peace to occupie himselfe also in pacifying the suites and controuersies, that doe arise amongst his neighbours: Yea, rather I wish him to be, as well εἰρηνοποιὸν as εἰρηναρχην, a Compounder, as a Commissioner of the peace: and I thinke him so much the meeter to step in betwixt those that be at variance, as (by reason of his learning, wisedome, authoritie, and wealth) he is like to preuaile more by his mediation and intreatie, then is another man. But yet, as it is not all one, to speake of his proper office in Law, and of his common duety in Charity: so I thought good (for learning sake) to seuer and distinguish them in this Treatie.

Of

Of ſuch as had the Conſeruation of the Peace at the Common Law.

CAP. III.

AS the Common Lawe hath (euen frō the beginning) cōtinued a ſpecial care for the Conſeruatiō of this Peace: ſo did it not want méete Officers (before that theſe Wardens or Iuſtices of the Peace were made) to whoſe charge it did recommend the maintenance of the ſame: And for as much as it will giue no ſmall light to the vnderſtanding of the office of the preſent Iuſtices of peace, to haue that ancient authoritie vnfolded, vpon the which this later power is (as it were vpon a Stocke) ſet and engrafted, I will ſpeake ſomewhat thereof, before I begin with the other.

At the common Law therefore, and before the time of king Edward the third, there were ſūdry perſons that had intereſt in the kéeping of the peace. Of thoſe, ſome had that charge as incidēt to other Offices which they did beare, and ſo concluded within the ſame, that they were neuertheles called by the names of their other Offices only: Some others had it ſimply, as of it ſelfe, & were thereof named *Cuſtodes pacis*, Wardens or Conſeruators of the peace. Conſeruators of the peace.

Againe,

cap. 1. and 7. H. 4. cap. 1. do al (in plaine speech) couple the maintenance of the Peace, with the pursuing of suits, as things that may right well stand together. And therefore, I conclude, that this furious gesture, & beastly force of body, or hands (and not euery contention, suit, and disagreement of minds) is the proper subiect and matter, about which the Office of the Iustices of the peace is to be exercised.

Iustices of the peace, be meet to pacifie suits.

Howbeit I write not this, as though I would not haue a Iustice of the peace to occupie himselfe also in pacifying the suites and controuersies, that doe arise amongst his neighbours: Yea, rather I wish him to be, as well εἰρηνοποιὸν as εἰρηναρχην, a Compounder, as a Commissioner of the peace: and I thinke him so much the meeter to step in betwixt those that be at variance, as (by reason of his learning, wisedome, authoritie, and wealth) he is like to preuaile more by his mediation and intreatie, then is another man. But yet, as it is not all one, to speake of his proper office in Law, and of his common duety in Charitie: so I thought good (for learning sake) to seuer and distinguish them in this Treatie.

Of

Of ſuch as had the Conſeruation of the Peace at the Common Law.

CAP. III.

AS the Common Lawe hath (euen frō the beginning) cōtinued a ſpecial care for the Conſeruatiō of this Peace: ſo did it not want méete Officers (before that theſe Wardens or Iuſtices of the Peace were made) to whoſe charge it did recommend the maintenance of the ſame: And for as much as it will giue no ſmall light to the vnderſtanding of the office of the preſent Iuſtices of peace, to haue that ancient authoritie vnfolded, vpon the which this later power is (as it were vpon a Stocke) ſet and engrafted, I will ſpeake ſomewhat thereof, before I begin with the other.

At the common Law therefore, and before the time of king Edward the third, there were ſūdry perſons that had intereſt in the kéeping of the peace. Of thoſe, ſome had that charge as incidēt to other Offices which they did beare, and ſo concluded within the ſame, that they were neuertheles called by the names of their other Offices only: Some others had it ſimply, as of it ſelfe, & were thereof named *Cuſtodes pacis*, Wardens or Conſeruators of the peace. Conſeruators of the peace.

Againe,

By other Offices.

Againe, of these that had charge ouer the Peace, by the dignitie of their offices, some had that power ouer all the Realme, and some others had it within certaine limits onely: and both these sorts after a diuerse manner of dispensation, as in particularitie it shal appeare.

The kings Maiestie then is (by his office & dignitie royall) the principall Conseruator of the peace within his dominions, & may giue authoritie to others to see the Peace kept, and to punish such as shall breake the same. But a Duke, Earle, or Baron, be no Conseruators of the Peace: because those be no titles of Office, but of dignitie onely, as saith Marrow.

The Lord Chancellor (or Lord keeper of the great Seale) the Lord Steward of England, the Lord Marshall & Constable of England, and euery Iustice of the Kings Bench, haue (closed in their offices) a credit for conseruation of the Peace ouer all the Realme, & may award precepts, and take Recognisances for the peace, Marrow and Fitzherbert. And (by good opinion) the Lord Treasurer of Englād may well be added to the same number.

The master of the Rolles also (by the iudgement of M. Marrow) is a general Conseruator of the peace by his Office. But he maketh processe and taketh Recognisances therupon, not as incident to his Office, but by prescription.

The Iustices of the Common Place, & Ba-

rons

ons of the Eſchequer, be Conſeruators within ſpeciall places only: that is to ſay, within the Precincts of their ſeueral Courts. So alſo the Iuſtices of Aſſiſes may award a man to pri-ſon that breaketh the Peace in their preſence, & they may command the keeping of the peace vnder a paine, & that weapons be taken from the Iurors or Witneſſes, that appeare before them, if any complaint be thereupon made: But as they be merely Iuſtices of Aſſiſe, they can neither take Suretie of the Peace, nor award any proceſſe for it, Marrow.

The Iuſtices of Goale deliuerie, may take ſurety for the peace of a priſoner before them, that was committed for not finding ſuretie of the peace, Marrow.

The Coroners (ſaith Britton fol. 3.) be principall Conſeruators of the Peace within their Countie: and euery Sherife is a Conſeruator of the Peace, within his Countie, as Iudge Fineux affirmed, 12. Hen. 7. 17. and after him M. Fizh. Nat. bre. fol. 81. where he ſaith, that the Sherife may (vpon requeſt made, & without any writ ſent vnto him) command a man to find Suretie of the peace by Recogniſance.

The Steward of the Marſhalſey, may take Suretie of the Peace by Recogniſance alſo within the Verge by preſcription: and the Conſtable, & Marſhal of the kings houſe, may ſee to the Conſeruation of the peace within the ſame houſe, Marrow.

The

The stewards of the sherifes turne, the steward in a Leet, or the steward in a Court of Pi-powders, cannot grant Suretie of the peace, vnlesse it be by prescription. But euery of them may commit him to ward, that shal make any affray in their presence, whilest they be in execution of their offices: which is more than the Steward & Suitors in a Court Baron can do, Marr. But the first two of these may also take presentment of any offence against the peace.

To be short, euery Constable, petie Constable, Tithingman & Borowhead, be Conseruators of the Peace by their offices, within the limits of their Hundreds, Towns, Tythings, Boroughs, 12.H.7:17.Fineux. And by the same reason our Borsholder in Kent, & their Thirborow in Warwickshire, be Conseruators also within their Boroughes. For Borowhead, Borsholder, and Tythingman, be three seuerall names of one selfe same Office, & doe signifie The chiefe man of the free pledges within that Borow, or Tything. And whereas each thirborow onely hath a Constable, there the Officers be called Thirdborowes.

These Constables were ordained (as it appeareth 3.H.4.9.& 10.H.4 & Fitzh.fol.17. to kæpe the Peace, & to represse Felons, and might take suretie of the Peace (by Obligation) if they found any man making an affray, or otherwise commit him to prison, vntill he should find such Suretie.

A han-

I haue read alſo, that a Conſtable might (at the common Law) haue bailed a ſuſpect of felony by Obligation, becauſe he was a Conſeruator of the Peace: and that both he and the Sherife loſt this authoritie by the Statutes (3. H.7. ca.3. & 1. & 2. Ph. & M. cap. 13.) The which ſtatutes, in giuing that power to Iuſtices of the Peace, doe (in the opinion of ſome men) take it from the Sherife & Conſtable, reported by Daliſon Iuſtice.

Simple conſeruators.

Hitherto then, of ſuch as had, and yet haue the charge of the Peace conueied vnder their other Offices. Now as touching thoſe that had the ſimple Office of Wardens (or Conſeruators) of the Peace, it is to be vnderſtood, that they alſo were of two diuers ſorts: that is to ſay, either Ordinarie or Extraordinarie: & the Ordinary conſeruators, were either by Preſcription, Election, or Tenure.

Ordinarie.

By preſcription.

A man may preſcribe (ſaith M. Marrow) that he and his anceſtors, or he and they whoſe eſtate he hath in the Manor of Dale, haue béene conſeruators within the Hundred of Sale, either all the yeare, or only at one certaine time of the yeare. And as he may preſcribe in the power it ſelfe, ſo alſo may he in the manner of the exercíſe of the ſame: as, that he and they haue vſed to take Suretie of Peace by Obligation, Pledge, or Caution: and ſo alſo in the manner of the Proceſſe therefore, as to Diſtreine, and to ſell the diſtreſſe: Mar.

But all this is to be doubted of, because that in the opinion of Brian and Pigot (21. E. 4. 67. & 22. Ed. 4. 35.) the Maior of Dale cannot prescribe to be a Conseruator, or to commãd Surecie of the peace, or to cõmit to prison for an affray in his presence vntil such surety be foũd.

Furthermore, euen as the Sherifes were anciently chosen, & as the Coroners yet be: So also certaine persons were wont to be elected Conseruators of the peace, in the full Counties before the Sherife: and of this kind I my selfe haue seene certaine Records (*in Rotul. patent. de Anno* 5. E. 1.) running in this course.

By election.

First, a writ to the Sherife of Norfolke, commanding him to chuse in his full County *vnũ hominem de probioribus & potentioribus comitatus sui, in custodem pacis.*

Then, another writ directed *balliuis & fidelibus* of the same Countie, giuing vnto them notice of the former writ, to the end (as it seemeth) that the Bailifes should warne the men of the Countie, and that they should appeare at the Countie Court, to make the Election.

And lastly, to the Conseruators elected, this writ following.

EDwardus *Dei gratia Rex Angliæ, Domin Hiberniæ, & Dux Aquitaniæ, dilecto & fid suo, Iohanni de Bretun Salutẽ: Cum vicecomes n ster Norfolc. & cõmunitas eiusdẽ comitatus elege vos in Custodem pacis nostræ ibidem: vobis mand mus, quòd ad hoc diligenter intendatis, prout id*

vic

grauamen vobis scribi faciet ex parte nostra, donec aliud inde præceperimus. In cuius rei, &c. Datum per manum venerabilis patris F. Bathō & Wellen. Episcopi, Cancellarij nostri, apud Cest. secundo die Septemb. Anno regni nostri quinto.

Touching the Conseruation of the peace by Tenure of land, M. Marrow putteth this case: If the King grant vnto a man lands to hold of him by knights seruice, and to be a Conseruator of the Peace in a Countie, he is a Cōseruator by Tenure: agreeable whereunto saith an Inquisition foūd at Chester (An. 3. E. 2.) after ỹ death of one Vrianus de Sācto Petro (*inter alia*) thus, *Quod idē Vrianus tenuit de domino rege in capite in dominico suo vt de feodo, die quo obijt, Medietatē Seriantiæ pacis, per seruitium inueniendi decem seruientes pacis ad custodiā pacis in Cestr. pro qua quidem custodia antecessores sui percipere solebant xxx. solidos per annum ad Scaccarium Cestr. pro Mantellis dictorum decem seruientum &c.* By Tenure.

These sorts & some others (which M. Marrow reciteth, and which I, wanting Records to warrant them, do omit) I call Ordinarie Conseruators of the Peace: because their authoritie was then Ordinarie, alwaies one, and the same well-enough knowne: But the Extraordinarie Conseruator, as he was indowed with an higher power, so was he not ordinarily appointed, but in the times of great troubles onely, much like as the Lieutenants of Shires are now in our daies. Extraordinarie Conseruators.

And he had the charge to defend the realme and countrey both from forraine & inward enemies, & might command the Sherife and all the Shire, to aid and assist him: as it may well appeare by this Patent (remaining of Record in the Tower) *Rot. Patent. de An.* 49. H. 3. made by that King, or rather in his name, by Simon Earle of Leicester, whose prisoner he then was.

REx Iohanni de Plessetsalutem: Cum nuper de consilio Magnatum, qui sunt de consilio nostro, constituerimus vos custodem pacis nostræ in comitatu Northumb. ac vos tã laudabiliter & circũspectè in officio illo gesseritis, quòd probitatem ac diligentiã vestrã meritò duximus recommẽdandam, & adhuc necesse sit (sicut intelleximus) quòd ad tuitionem illarum partium & conseruationem pacis nostræ, eidẽ officio intendatis: vobis (de consilio Magnatum prædictorũ) mandamus firmiter iniungentes, quatenus omnem diligentiam (quam poteritis) adhibeatis ad pacem nostram conseruandam in partibus prædictis, in forma qua vobis aliàs iniunximus. Mandauimus enim Vic. nostro Northumb. quòd quotiens opus fuerit, & à vobis fuerit requisitus, cum toto posse sui comitatus, vobis ad hoc assistat. Nolumus autẽ, quòd prætextu huius mandati nostri, de aliquibus (quæ ad officiũ vic. pertinent) vos intromittatis, quo minus vic. de exitibus eiusdẽ comit' nobis plene respondere valeat ad Scaccarium nostrum. Teste Rege, apud Westmonast. xi. die Februarij, Anno regni sui quadragesimo nono.

Sundry

Sundry the like Patents were at the same time made: as to Iohn de la Hay, to be Conseruator of *Kent*, and of the sea coasts there: to Raph Ballet of *Draiton*, to be Conseruator of Staffordshire: and so to others, for other Counties: And the like did afterward grow to be vsuall, in the times of intestine troubles, or of forraine warres.

Of the first ordaining of the Wardens and *Iustices* of the Peace, by Statute Law.

Cap. IIII.

After such time as Queene Isabell (contending with her husband, King Edward the second) was returned ouer the seas into *England*, accompanied with her Some Prince Edward (called afterward the third King of that name) & with Sir Roger Mortimer & such others of the English Nobilitie, as had for the indignation of the King, fled ouer the seas vnto her: She sone after got into her hands the persõ of the old King, partly by the assistance of the Henalders that she brought with her, and partly by the aid of such other her friends as she found readie here: and she immediately caused him (by forced patience) to surrender his crowne to the yong prince. And thẽ also, forasmuch as

it was (not without cause) feared, that some attempt would be made to rescue the imprisoned king, order was taken, that he would be conueied secretly, & by night watches, from house to house, & from castle to castle, to the end that his fauorers should be ignorãt what was become of him: Yea, & then withall it was ordained by Parliament, in the life time of that deposed king, and in the verie first entry of his sonnes raigne, (1. Ed. 3. cap. 15.) That in euery shire of the realme, good men & lawfull (which were no maintainers of euill, nor Barretours in the countrey) should be assigned to keepe the peace: which was as much to say, that in euery shire the king himselfe should place special eyes and watches ouer the common people, that should bee both willing and wise to foresee, & be also enabled with meete authoritie to represse all intention of vproare & force, euen in the first seed thereof, and before that it should grow vp to any offer of danger. So that, for this cause (as I think) the election of the simple Conseruators (or Wardens) of the peace was first taken from the people, & translated to the assignement of the King.

And whether the authoritie and power of these Wardeins were then also with this alteration any thing increased, or no, I wil not affirme: But I find (3. E. 3. *tit. Coron.* Fiz. 360.) that an Enditement of Murther was found before one Wardein of the peace only, & that he

hereupon wrot his letter (or precept) to the herife, to apprehend the perſon endited, who oke and brought him before the Iuſtices in ire: and that they alſo thereupon proceéded o ỹ arraignement and triall of him.

And the ſtatute (4.E.3.cap.2.) taketh order, ỹ uch as ſhould be endited, or taken by ỹ Wardeins of the peace, ſhould not be bailed by the herife, or other Miniſters, vnleſſe they were Mainpernable by the Law.

Howſoeuer that were, the ſame king vſed (as I think) for ỹ firſt 33. yeres of his raigne, to make his aſſignements and commiſſion to the Wardeins of the peace, not alwaies ſeuerally into each ſhire, but ſometimes ioyntly to ſundry perſons ouer ſũdry ſhires: for ſo I find a commiſſion (2.Ed.3. *part.* 2. *patent. in dorſo*) made to William Roos & thæ others his companions, to be Wardeins of the peace, not only in Lincolnſhire, but alſo in thræ or foure of the other Coũties thereunto next adioyning. This, though it might ſæme to be warrãted (after 18.E.3.) vpõ the conſtruction of ỹ word Counties, vſed plurally in the ſtat. 18.E.3. Stat. 2. c.2. yet was it much cõtrary to the meaning of ỹ former lawes (made 1.E.3.c.15. & 4.E.3. c.2.) where ỹ ſame word is read (Euery coũty) in ỹ Singular nũber. And therfore ỹ Parliament (34.E.3.c.1) reſtored ỹ proper fæce of thoſe lawes ſaying: In euery coũty of *Englãd* there ſhalbe aſſigned for the ſafe keeping of the peace, one lord

Commiſſions or aſſignmẽts for the peace.

and with him, 3. or 4. of the mightiest men in that Countie. And afterward it addeth, They shall haue power to heare and determine (at the Kings suit) all maner of Felonies and trespasses, done in the same Countie.

And hereof it commeth to passe, that euer sithence each County hath her proper Commissioners for the Peace, and Counties haue not béene conioyned in Commission, as they were sometimes before. Hereunto also that may be referred, which M. Fitzh. (Fol. 171.) hath, saying, That before the Statutes which ordained Iustices of the Peace, the King vsed to make Conseruators of the peace by his Commission, in those Counties and places, where he thought best, to keepe his peace.

The first name of Iustices of peace.

But now, at what time these Wardeins of the peace were first named (and might truely be tearmed) Iustices of the peace, it is not so euident, that I dare determine vpon it. For, on the one side I know that M. Marrow taketh it cleare, that they were made Iustices by the Statute 18. E. 3. Stat. 2. cap. 2. and on the other side I sée, that they were not named Iustices in any Statute (that I haue found) within 17 yeares after it.

There is a shew (I confesse) in that Statute (18. E. 2.) that they should be Iustices, because of their power to heare & determine felonies, which is mentioned there. But if it be wel weighed, it will appeare by the Statute it selfe

selfe, that the Wardeins of the Peace then were to haue one Commission by themselues for the keeping of the peace: and that they and others (onely at times needfull) were to haue another Commission to heare and determine Felonies: So that, as they were meerely Commissioners for the peace, they had none authoritie to determine felonies: and consequently could not (in regard thereof) be then worthily called Iustices.

And it is plaine (in mine opinion) that the generall power of determining felonies, was first giuē vnto the Wardeins of the peace (as to thēselues) by the statute 34. E. 3. ca. 1. After which time also it is verie true, that they were both commonly reputed, and called Iustices.

For within one or two yeeres after that statute, there is a Commission, which I haue seene (*in dorso patentium parte 2.*) that speaketh thus, *Assignauimus etiam vos, & tres vestrum, Iustitiarios nostros &c.* and the statute (36. E. 3. cap. 12.) taking order for the Quarter Sessions to be holden, as well by them, as by the Commissioners for Labourers, calleth them plainly Iustices of the Peace.

By

By whose authority, and by what meanes *Iustices* of the Peace be appointed: and of what sorts they be.

Cap. 5.

FRom the king (who is the head of Iustice) ought to flow all authoritie to the inferior and subalterne Iustices. And vpon this reason, it seemeth that the said Statutes, 18.E.3.cap.2. and 34 E.3.ca.1. did ordaine, that the Wardeins of the Peace in each Countie should be assigned by the Kings Commission: to the end that it might thereby appeare, that they receiued their whole authoritie and power, as it were by his owne hand or deliuery.

Howbeit afterward, partly through such as had *Iura regalia* within their Cōunties Palātine, and did thereby make Iustices of the peace in their owne names: & partly by the meanes of sundry Abbots and Religious persons, who (labouring by all policie to increase their iurisdictions, & to shoale out thēselues from the ordinary gouernment) had obtained grants frō the Kings of the realme, that they themselues might make *Iusticiarios suos ad pacem conseruandam* within their own liberties, this prerogatiue of making Iustices was in many places afterward seuered frō the crowne, to no small detriment of the royall estate and dignitie.

And

And therefore, although by the opinion of Iudge Fineux in the Abbot of Saint Albons case 20.H.7.8. such a grant was of no value in law, because it was of a Prerogatiue inseparably annexed to the crowne: yet K. Henrie the eight thought it fit (by a generall resumption in Parliament of all such liberties) to restore vnto the crowne her ancient right in this behalf. Whereupon (27.H.8.cap.24.) it was decréed, that no person whatsoeuer should haue any power to make Iustices of the Peace: but that they should be made by letters patents vnder the kings great seale, in the name, and by the authority of the King and his heires, Kings of the Realme, in all Shires, Counties Palantine, & other places within his dominions.

So that now again, all Iustices of the Peace at this day (except the Archbishop of *Yorke*, & the Bishops of *Durham*, and *Elie*, and their tẽporal Chancellors for ẏ time being, which are seuerally by that very Parliament authorised to be Iustices of the peace within the liberty of *Hexam*, the Bishopricke of *Durham*, & the Isle of *Elie*: and except the Iustices of peace within the Countie Palantine of *Lancaster*, which also are by prouision in ẏ same statute to be made vnder the kings vsual seale of ẏ same Duchie) all others I say, bée ordained by the meane of the great Seale, & by the ministerie of the L. Chãcellor, hauing ẏ charge of ẏ same: but yet so, ẏ some of thẽ be made by letters patẽts vpon

Two sorts of Iustices of the peace.

speciall

speciall suite to the King, and his bil assigned: and other some by Commission of common Course, that resteth in the dispensation of the L. Chancelour himselfe.

By grant. They of the first sort, be of some called Iudicial Iustices, & Iustices of themselues, for that the King cannot discharge them at his will and pleasure, because they are to continue, and to enioy Iurisdiction, so farre forth as their Patent of Graunt doth enable them. Marrow.

And therefore, if the King doe graunt vnto a man to be a Iustice of the Peace during his life within a certaine precinct, without any further words: he shall continue such a Iustice during his life: and shall haue all that power, that a Vardeine or Conseruator of the peace had: & perhaps such power also as is giuen to a Iustice of the Peace by expresse words in any statute: but he shall not haue all that power which is ordinarily giuen to the Commissioners of the Peace by their Commission. Marrow.

The Mayors, and other head officers, of many Cities and corporate Townes, be Iustices of this kind at this day, by grants of the King, and his progenitors.

By Commission. Those other Iustices of the Peace, which deriue their power from the Commission, be called Commissioners of the Peace: & do differ frō the other in this point especially, that they be

Iustices

Iustices during only the Kings life, and (in his life) during onely his owne will, and pleasure.

These (as I said) be now at this day appointed by the discretion of the Lord Chauncelor: but whether the K. himselfe did at the first nominate thē (as he did those which were made by Graunt (or else did leaue the choice of them to the Lord Chauncelor alone, or to him and others, it hath some shew of question.

Commissioners of the peace appointed by the L. Chauncelor.

It is true, that in the Parliament holden at *Canterbury* 12. R. 2. cap. 2. (which happened shortly after that Michael de la Pole was removed from that place, and after the troublesome Parliament of the eleuenth yeare of that Kings raigne.) It was enacted, that the Chancelor, Treasurer, & Keeper of the priuie Seale, the Steward of the Kings house, the Kings Chamberlaine, Clerke of the Rolles (now called Master of the Rolles) the Iustices of both Benches, the Barons of the Exchequer, and others that should be called to the naming of the Iustices of peace, Sherifs, Eschetors, Customers, Controllers, and other officers, should be sworn to do the same faithfully, and without affection. But whether the meaning of that Statute were, that they al should be continually present together at the nomination of al such officers: and whether that Statute were made but for that busie time onely, it may well be doubted. For again, vpō fault foūd (as it should seeme) that

that ỹ Cõmissioners of the Peace were mad
of persons insufficient, & dwelling in forrei
Counties, it was enacted (2 H. 5 Parli. 2 ca. 1.)
that from thenceforth they should be assigned
by the aduise of the Chauncellor & of the King
Councel: which words may be taken to coun
as though they had beene named before by the
Lord Chancellor alone: and yet may they als
indifferently be extended, either to adioin
the aduise of the Kings Councell to the Chan
cellour, or the aduise of them both vnto the
king himselfe.

This is out of all doubt, that 18. H. 6. ca. 11.
did take order, That (vpon knowledge giuen
to the Chauncellor of England, by any appoin
ted to be a Iustice of peace, that he had not land
to the value of 20. pounds by yere) the Chaun
cellour himselfe should put another sufficient in
his place. And for want of sufficient men, ha
uing lands of that value, learned in the Law, and
of good gouernance, that the Chauncellour of
England, for the time being, should haue powe
by his discretion to put into the Commission o
ther discreete persons learned in the Lawe,
though they had not lands to that value. And
albeit this credite were heere giuen vnto him
in these particular cases onely, yet may it well
be thought, that he had bene before, and should
be afterward, trusted with the choice of al the
Commissioners of the Peace generally: the
rather also, for this presumption gathered by

n the statute (3. E.6.cap.1.) whith mention-
th that the nominatiō of the *Custos Rotulorum*
being a very special Iustice of the Peace) had
f long time before belonged to the office of
he Chauncelour: vntill that (vpon sinister oc-
asion) it was taken from him by the Statute
f 57.H.8.cap.1. whereof you shall read more
n the fourth Booke of this treatise.

What maner of men the Commissi-oners of the Peace ought to be.

Cap. VI.

IN the choyce of the Wardeins and Iustices of the Peace, the Statute Lawes haue respect to ỹ maners, and abilitie or liuelyhod of them all: and to the skil and learning of such as are specially selected, and therefore named of the *Quorum*. For Gardeins of the Peace ought to be good men and lawfull: no maintainers of euill: nor Barretours in the countrey: or (as some bookes haue it) no maintainers of euil Barretors in the country. 1.E.3.cap.15. Men of the best reputation (*Meultz vailantz*) most substantiall (or of most valour) shall be assigned keepers of the peace. 18.E.3.ca.2.& 17.R.2.cap.9. In euerie countie for safegard of the Peace shall be assigned one Lord, and with him three or foure

foure of the (*Meuliz vailants*) most valiant men of the Countie, together with some Sages of the Lawes 34.E.3.ca 1.

And after some troubles in the time of king Richard the 2. it was enacted, that none shal be made Iustice of the Peace, for any gift, brocage, fauour, or affection: nor any which sueth by himselfe or any other, priuily, or openly, to be a Iustice of the Peace, shall bee admitted to that office, 12.R.2.cap.2. And of some speciall policie it was then also prouided (cap.10. of the same parliament) that no Steward of any Lord should bee assigned in the Commission of the Peace. Howbeit in the Parliament of the next yeere (ca.7.) it was ordered, that (notwithstanding that clause of the former statute) Iustices of the Peace should then be made of new in all places, of the most sufficient Knights, Esquires, and men of Law.

Againe, Iustices of the Peace (especially those of the Quorum) from henceforth shall be made of the most sufficient persons dwelling in the County (without taking any others dwelling in forraine Counties) except the Lords, Iustices of both Benches, Iustices of Assise, the chiefe Baron, the chiefe Stewards of the Duchie of Lancaster, the Seriants, and the Kings Atturney. 2.H.5.Parl.3.cap.1.

Lastly, for that (contrary to those former statutes) mē of small substance had crept into the Commission, whose pouertie made them both

couetous

couetous and contemptible: a new laiwe was publiſhed, to this effect following:

None ſhall be aſſigned Iuſtice of the Peace, if he haue not lands or tenements to the value of xx. pounds by the yeere: And if any be otherwiſe appointed, he ſhall within a moneth after notice of the Commiſſion (and vnder the paine of twentie pounds, & to be put out of the Commiſſion) giue knowledge of his not hauing ſuch lands or tenements, to the Lord Chauncellor, who ſhall put another perſon ſufficient in his place. And the like paine is, if he ſit or make Warrant or any Precept, by force of the Commiſſion. But this extendeth not to cities, Boroughes, or townes that be Counties of themſelues or that haue Iuſtices of Peace (dwelling in them) by Commiſſion or grant of the King: Nor to ſuch counties, where there be not men ſufficient (hauing lands or tenements to the value aforeſaid) learned in the Law, and of good gouernance: for then, other diſcrecte perſons (learned in the Law) may by the Lord Chauncellour be put in Commiſſion. 18. Hen. 6. cap. 11.

Now although this portion of twentie pounds by yere, be not at this day in account anſwerable to the charge & countenance of a Iuſtice of the Peace: yet who knoweth not, that at the making of this Law, it was far otherwiſe: And therfore I do not doubt, but as the rate of all things is greatly growne ſince

that time, so also there is good care taken, that none be now placed in the Commission, whose liuings be not answerable to the same proportion.

Thus then, our Parliaments (intending to make the Iustice of peace an able Iudge) do require, that he come furnished with three of the principall ornaments of a Iudge: that is to say, with Iustice, Wisdome, Fortitude, for to that summe the words, Good, Learned, Valiant, doe fully amount. And vnder the word Good, it is meant also that he loue and feare God aright, whithout the which he cannot be Good at all.

How many Commissioners of the Peace there ought to be in each Countie.

Cap. VII.

THe number of Wardens of the peace was not limited, vntill that the Statute (18. E. 3. cap. 2.) ordained, that there should be two or three in each Countie: And because it was found, within a few yéers experience, that this number sufficed not for the gouernance of the countie, therfore by an Act (made 34. E. 3. c. 1) it was further prouided, that in euery shire, one Lord, and with him three (or foure) of the Best the in County, & some learned in ỹ Lawes

should

should be assigned for keeping of the Peace, and to restraine offendors.

In execution of which Statute, there was (amongst many other) which I haue seene, one Commission for Kent, awarded (35. E. 3.) to these eight persons, Robert Herle, Iohn Cobham, Robert Northwood, Ralph Frenningham, Thomas Lodelow, Robert Vintar, Iohn Barrie, and Thomas Hartregé.

But as it falleth out many times, that euil examples doe follow of good lawes: So here it came to passe, that whilest the Parliament prouided an increase of Officers, to restrain offendors, ambition so multiplied the number of ỹ Iustices, that it was afterward high time to make a contrary Law, to diminish them. And therfore by the statutes (12. R. 2. ca. 10. & 14. R. 2. ca. 11.) it was prohibited, that there should not be any moe then fiue Iustices of the Peace in any Commission, besides the two Iustices of Assise, and certaine Lords that were assigned in the Parliament it selfe. And, for the better restraint of the increase of thē in time to come, it was also thē further enacted, that no Associatiō should be made to the Iustices of peace after their first Commission, 12. R. 2. cap. 10. Which law, although it be not to be abrogated till this day, yet it was long since eluded, by making of new Cōmissions that had more new Iustices thrust into them.

And (truly) it seemeth to me, that (together

Very many Iustices of peace at this day.

with the like ambitious desire of bearing rule in some) the growing number of the Statute Lawes, committed from time to time to the charge of the Iustices of the Peace, hath bene the cause that they also are now againe increased to the ouerflowing of each Shire at this day.

Iustices of peace be ouerladen with Statutes.

For if Hussey (the chiefe Iustice 1.H.7.3.) did thinke that it was enough to loade all the Iustices of the Peace of those daies, with the execution, onely of the Statutes of *Winchester* and *Westminster*, for Robberies, and Felonies: the Statute of Forcible entries: the Statute of Labourers, Vagabonds, Liueries, Maintenance, Embracerie, and Sherifes: Then, how many Iustices, (thinke you) may now suffice (without breaking their backes) to beare so many, not Loads, but Stacks of Statutes, that haue since that time bene laide vpon them?

To dispute, where it bee now better to haue many or fewe Iustices of the Peace in each Shire, is a notable question, and worthy of a higher consideration: and therefore it becommeth not me to enter into it.

The

The Forme of the late reformed *Commission* of the Peace.

Cap. VIII.

COnsidering that all the authorities and power of these Commissioners of the Peace, floweth out of their Commission, and out of the Statutes, (as it were from two principall Heads, or Fountaines) the place now requireth, first that wee vnfold the Commission it selfe, and consider what is contained therein, then afterwardes that wee perule the Statutes also, as they arise and shew themselues.

IAcobus *Dei gratia Angliæ, Scotiæ, Franciæ, & Hyberniæ Rex, fidei defensor &c. Prædilecto & fideli, Iohanni Cantuar. Archiepiscopo &c. Necnon prædilecto* Thomæ Egerton, *militi, Domino custodi magni sigilli nostri &c. salutem.* The Salutation.

Sciatis, *quòd assignauimus vos coniunctim & diuisim, & quemlibet vestrum, Iusticiarios nostros, ad pacem nostram in comitatu nostro Kanciæ conseruandam: Ac ad omnia Ordinationes & statuta pro bono pacis nostræ, ac pro conseruatione eiusdem, & pro quieto regimine & gubernatione populi nostri edita, in omnibus & singulis suis Articulis, in dicto comitatu nostro tam infra libertates quàm ex-* The power of the Iustices. The first Clause.

tra, iuxta vim formam & effectum eorundem, cu-
ſtodiendum & cuſtodiri faciendum. Et ad omnes
contra formam Ordinationum, vel Statutorum illo-
rum, aut eorum alicuius in comitatu predicto de-
linquentes, caſtigandum & puniendum, prout ſe-
cundum formam Ordinationum & Statutorũ illo-
rum fuerit faciendum: & ad omnes illos qui alicui,
vel aliquibus de populo noſtro de corporibus ſuis,
vel de incendio domorum ſuarum minas fecerint,
ad ſufficientem ſecuritatem de pace, vel bono
geſtu ſuo, erga nos & populum noſtrum inueni-
endam coram vobis ſeu aliquo veſtrum venire
faciendum: & (ſi huiuſmodi ſecuritatem inuenire
recuſauerint) tunc eos in priſonis (quouſque huiuſ-
modi ſecuritatem inuenerint) ſaluo cuſtodiri faci-
endum.

The second clauſe.

Aſſignauimus etiã vos & quoſlibet duos, vel plu-
res veſtrum (Quorum aliquẽ veſtrum A.B.C.D.
E.F. &c. vnum eſſe volumus) Iuſticiarios noſtros,
ad inquirendũ per ſacramentũ proborum & lega-
lium hominũ de comitatu predicto (per quos rei ve-
ritas melius ſciri poterit) de omnibus, & omnimodis
felonijs, veneficijs, incantationibus, ſortilegijs, arte
magica, tranſgreſſionibus, forſtallarijs, regratarijs,
Ingroſſarijs, & extortionibus quibuſcunque: Ac de
omnibus & ſingulis alijs malefactis & offenſis (de
quibus Iuſticiarij pacis noſtræ legitimè inquirere
poſſũt, aut debẽt) per quoſcunque, & qualiter cunq;
in comitatu predicto factis, ſiue perpetratis, vel qui
impoſterũ ibidem fieri, vel attempari cõtigerit: Ac
etiam de omnibus illis qui in comitatu predicto

conuer-

conuenticulis contra pacem nostram in perturbationem populi nostri, seu vi armata ierunt, vel equitauerunt, seu imposterum, ire vel equitare præsumpserint: Ac etiam de omnibus hijs qui ibidem ad gentem nostram mayhemandam, vel interficiendam in insidijs iacuerunt, vel imposterum iacere præsumserint: ac etiam de hostellarijs, & ijs omnibus & singulis personis, qui in abusu ponderum, vel mensuarum, siue in venditione victualium, contra formam Ordinationum vel Statutorum, vel eorum alicuius, inde pro communi vtilitate regni nostri Angliæ & populi nostri eiusdem editorum deliquerunt, vel attemptauerunt, seu imposterum delinquere, vel attemptare præsumpserint, in comitatu predicto: At etiam de quibuscunque vicecomitibus, balliuis, Senescallis, constabularijs, custodibus gaolarum, & alijs officiarijs, qui in executione officiorũ suorum (circa præmissa, seu eorum aliqua) indebitè se habuerunt, aut imposterum indebitè se habere præsumpserint, aut tepidi, remissi, vel negligentes fuerunt, aut imposterum fore contigerit, in comitatu predicto: Et de omnibus & singulis articulis & circumstantijs, & alijs rebus quibuscunque, per quoscunque & qualitercunque in comitatu predicto factis siue perpetratis, vel quæ imposterum ibidem fieri, vel attemptari contigerit, qualitercunque præmissorum, vel eorum alicuius, concernentibus plenius veritatem.

Et ad indictamenta quecunque sic coram vobis seu aliquibus vestrum capta, siue capienda, aut co-

ram alijs nuper Iusticiarijs pacis in comitatu predicto facta siue capta (& nondum terminata) inspiciendum, ac ad processus inde versus omnes & singulos sic indictatos, vel quos coram vobis imposterum indictari contigerit (quousque capiantur, reddant se, vel vtlagentur) faciendum & continuandum.

Et ad omnia & singula felonias, veneficia, incantationes, sortilegia, artes magicas, transgressiones, forstallarias, regratarias, ingrossarias, extortiones, conuenticula, indictamenta prædicta, ceteraque omnia & singula præmissa, secundum leges & Statuta regni nostri Angliæ (prout in huiusmodi casu fieri consueuit, aut debuit) Audiendum & Terminandum: Et ad eosdem delinquentes, & quemlibet eorum pro delictis suis per fines, redemptiones, amerciamenta, forisfacturas, ac alio modo (prout secundum legem & consuetudinem regni nostri Angliæ, aut formam Ordinationum, vel Statutorum prædictorum fieri consueuit, aut debuit) castigandum & puniendum.

Exceptions restraint.

Prouiso semper, quod si casus difficultatis super determinatione aliquorum præmissorum coram vobis, vel aliquibus duobus, vel pluribus vestrum euenire contigerit: Tunc ad Iudicium inde reddendum (nisi in præsentia vnius Iusticiariorum nostrorum de vno, vel de altero banco, aut vnius Iusticiariorum nostrorum ad assisas in comitatu prædicto capiendas assignatorum) coram vobis vel aliquibus duobus, vel, pluribus vestrum, minimè procedatur.

Et ideo vobis, & cuilibet vestrũ mandamus, qd̃ circa custodiam pacis, ordinationum, statutorum, & omnium & singulorum caterorum præmissorum, diligenter intendatis: Et ad certos dies, & loca, quæ vos, vel aliqui huiusmodi duo, vel plures vestrũ (vt prædictum est) ad hoc prouideritis, super præmissis faciatis inquisitiones, & præmissa omnia & singula audiatis & terminetis, ac ea faciatis & expleatis in forma prædicta, facturi inde quod ad iustitiam pertinet secundum legem, & consuetudinem regni nostri Angliæ: Saluis nobis amerciamentis, & alijs ad nos inde spectantibus.

The charge to the Iustices.

Mandamus enim tenore præsentium vicecomiti nostro Kanciæ, quod ad certos dies & loca (quæ vos, vel aliqui huiusmodi duo, vel plures vestrum vt præd' est, ei vt præd' est scire feceritis) venire fac' coram vobis, vel huiusmodi duobus, vel pluribus vestrum (vt dictum est) tot & tales probos & legales homines de balliua sua (tam infra libertates, quam extra) per quos rei veritas in præmissis melius sciri poterit & inquiri.

To the Sheriffe.

Assignauimus denique te præfatum Edw. Hoby Militem, custodem Rotulorum pacis nostræ in dicto comitatu nostro: Ac propterea tu ad dies & loca prædicta, Breuia, Præcepta, Processus, & Indictamenta præd' coram te, & dictis socijs tuis, venire facias, vt ea inspiciantur, & debito fine Terminẽtur sicut prædict' est. In cuius rei testimonium, &c. Datum decimo septimo die Nouemb. Anno regni nostri &c.

To the Custos Rotulorum.

An explication of sundrie parts of the said Commission or the Peace.

Cap. IX.

Before that I enter into ỹ opening of the capital points of this pṛesẽt reformation, it shall not bee out of the Readers way, to lead him along by the old Commission: and to shew vnto him, both what it was at the first, how many accessions it receiued in pṛocesse of time, and how (being of late yéeres vnregarded) it was so fallen into corruption, that of necessitie it ought to be redressed.

It is the agreeing opinion of al the Judges (2.R.3.9.) that Iustices of the Peace had none other power (at the first) but only *ad pacem Regis conseruandam*. And that the same is most true, you may well perceiue by that Statute (1.E.3.cap.15.) which first created these Iustices and gaue vnto them the onely power, to keepe the Peace. But the very next yeers after, the forme of their Commission was enlarged, so as they had the Statute of Winton in charge, and were both enabled to enquire of Felonies, and trespasses, & warranted also to arrest felons that were indited. For so was the Commission to William Roos and others, whereof I haue spoken before.

After

After this, in the 20. yeare of the same King Ed. 3. the Statute of *Northampton* (which was made 2. Ed. 3. cap. 3.) was inserted to their Commissions: and together with it a direction to certifie into the Chancerie the names of such as (being indited) did flie, and did refuse to be Justiced: because at that time they had no power (as it seemeth) to award any proces at all, 20. E. 3. *part. patent. in dorso.* The charge to the Justices.

In which same 20. yeare (*part. 2. patent. membrana 7. in dorso*) you shall find a Commission of the peace directed afterward, *Roberto de Scardeburgh, Adæ de Semere &c. ad custodiendum pacem nostram & Statutum de Winton, Statutum apud North. & Statutum apud Westm. An. 5. regni nostri editũ si suspitio maliversas aliquos habeatur, &c.* Which statute of *West.* lieth in the 14. chapter of that 5. yeare of King E. 3. and was made against Robertsmen, Drawlatches &c. and was at that time first mentioned in the Commission of the peace.

Againe, as it is euident, that the statute (34. E. 3. cap. 1.) was the first that gaue authority to these Iustices to heare & determine of trespasses & felonies: So is there a forme of a commission to be seene (35. E. 3. *part. 2. patent. in dorso*) which was awarded to Robert Herle, Io. Cobhã, Io. Barry, & others for *Kent*, in which their power in Felonies, & Trespasses, was accordingly enlarged: with a further addition also touching weights & measures, seruants, artificers & laborers:

and

and therein also is the first clause (that I haue séene) for taking the Suretie of the peace and good abearing.

Thus stood the forme of the Commission of the peace (so farre as I haue perceiued) vntil the time of king Richard 2. In the 13. yeare of whose raigne (as you may read *parte* 1. *patent. membrana* 25.) there was a Commission dated the 15. of Iuly, whereby these Iustices were commanded to enquire of cappes and liueries, forestallings, and regrataries, and of extortions committed by Victuallers, Hostlers, Laborers, Artificers and Seruants.

In the next yeare of the same King R. the second, the execution both of the statute made at *Cambridge* (12. R. 2. c. 7. 8. & 10.) concerning Laborers, and of the statute made at *Westm.* 13. R. 2. c. 13.) against Hunters, was recommended to the Iustices of the Peace in their Commission.

At which time also the clause concerning Shirifes, Mayors, & Bailifes was first brought into the Commission of peace: and Stephen Betenam was then the first for *Kent*, to whom the credit of the Records of the Peace was thereby committed: which officer is now from thence called the *Custos Rotulorũ*: all which matters you may find in the Record, 28. *Iunij*, *Ann.* 14. *R.* 2. *parte* 1. *patent membrana* 35.

Furthermore, after al this (but in what very yeares I certainly know not) first the statutes

of

of Liueries (made 1. H. 4. ca. 7. & 2. H. 4 ca. 21.) then the Statute made 2. H. 5. cap. 7. against Lollards: and lastly, the statute made 3. H. 5. c. 6. & 7. against Counterfeiting, clipping, and washing of money, were all thrust into the Commission of the Peace.

And in this plight (that part of the Lollards only excepted) stood the Commission of the Peace, till it was euen now of late: Notwithstanding, that it was both surcharged with vaine recitall, and often repetitions of some of these Statutes that were a good while before repealed: and also foully blemished with sundrie other corruptions that had crept into it, partly by the miswritting of Clarkes, and partly by the vntoward huddling of things together, which were at strife the one with the other of them.

Which imperfections being made knowne to the late Reuerend Iudge Sir Christopher Wray (then Lord chiefe Iustice of the Kings Bench) he communicated the same with the other Iudges and Barons of the Coyfe, so as by a generall conferẽce had amongst thẽ, the Commission was carefully refined in the Michaelmas Terme 1590. & be being then also presented to the Lord Chauncelour, as a meet paterne of a Commission of the Peace, to be vniformly put in vre throughout the realm, he forthwith both accordingly accepted thereof, and commanded the same to be sealed and sent abroad.

Now

How many amendments it receiued here by, and vpon what speciall reasons, I will not now repeat, since I did soone after publish the same in a conference made of the old and this new Commission.

Thus much therefore premised, let vs go in hand with the Commission as it now standeth before you.

Forasmuch as in the late reformation of this Commission, care was taken, that the droffie matter of the former Commission being tried out (by the fire of learning and discretion) the body and countenance therof should (as much as might be) remaine, and be let to stand: it commeth to passe, that the chiefe parts hereof be yet the very same that they were before, and are comprehended within these few Termes following.

The thrées parts of the Commission.

The 1 Salutation of the King.
2 Power of these Iustices.
3 Charge, giuen to them, & to others.

The Salutation of the King is but a catalogue of all the names of the Iustices, and containeth nothing that hath néed of light.

Next followeth the Power of the Iustices, contained in two seuerall clauses, whereof the former beginneth thus: *Sciatis quòd assignauimus vos, cõiunctim & diuisim, & quemlibet vestrũ, Iusticiarios nostros, ad pacem nostram &c.*

The later beginneth at the end of the former thus: *Assignauimus etiam vos, & quoslibet*

...os, vel plures vestrum (quorum aliquem vestrum &c. vnum est volumus) Iusticiarios nostros ad In-...irendum &c.

This first Clause (or *Assignauimus*) maketh them Iustices for the cõseruation of his Maiesties peace: by force of which word, they haue singularly, dually, and plurally, both all the ancient power touching the peace, which ỹ Conseruator of the Peace had by the cõmon Law: also that whole authority with the statutes haue sithence added therunto. For the more euidẽt declaratiõ wherof, they are immediatly after assigned to cõserue *Omnia Ordinationes & Statuta pro bono pacis, &c.* In which generall words there do lie implied, not only ỹ seuerall statutes of Westminster 1. ca. 9. 13. E. 1. ca. & 28. E. 3. ca. 11. for Huy & crie after Felons: & that of Westminster (5. E. 3. cap. 14.) against Nightwalkers, that be suspected: but also whatsoeuer other lawes & statutes made, either for the arresting of Robbers, Murtherers, Felons, & of those that be suspected to be such: or for the repressing of Riots, Affraies, Force, & violence, all wich be directly, against the peace, as all men do know: or for the hauing of Armor and weapon, which tendeth principally to the kéeping of the peace, as the statute of Winch. it selfe doth acknowledge.

The first clause.

Both Conseruators and Iustices, for the peace, and for the statutes.

And therefore, there is no more necessity to recite any of them by name in the Commissiõ, thẽ to make tedious rehearsal of al those other sta-

statutes, which (giuing expresse authoritie t
the Iustices of the Peace) doe containe a suff
cient Warrant and ample Commission with
themselues.

Two meanes to conserue.

But, euen as the conseruation of the Peac
and the execution of the Statutes be seuer
things: so is there in this first brãch (or clause
two distinct waies (or meanes) for the effec
ing of the same. For, the Statutes are to b
performed according to such prescript and o
der, as themselues do deliuer: wherein if n
power at all be expressely giuen to any o
Iustice of the Peace alone, then can he not
therwise compel the obseruation thereof (
farre as I can learne) then by Admonition o
ly, & calling vpon the parties: in which behal
if he shall not be obeied accordingly, he is
preferre the cause at the Sessions, and to wor
it to a presentment vpon the statute, and
(by the helpe of his fellow Iustices) to heare
determine thereof, as law requireth.

Sureties of the peace.

But, for preuẽtion of the breach of the peac
he hath full authoritie hereby, not only to ca
the partie for the finding of Sureties for th
Peace, or for the good behauior, as the case sh
require, but also (for not finding such sure
ties) to commit him to safe custodie, with
his Maiesties gaole or prison.

Lastly, for the closing vp of this first clause,
is to be remembred, that all this authoritie
Liberties. to be exercised, *in Comit' præd', tàm infra liberta*

qua

iam extra, in the said Countie, aswell within e liberties as without. But yet so, as the di- inction of Liberties be not neglected. For as many other shires, so in Kent also, there be me Cities or Townes that be Counties of emselues, hauing their proper Iustices with- them: And some others there be, which ha- ing their proper Iustices, be not any counties themselues at al, though happily they haue their Charter special words of prohibition, at the Iustices of the shire at large, *Non se in- omittant. &c.* Of that former sort is the Citie Canterburie with vs, and of this latter rt is the citie of Rochester.

Wherupon it followeth, that a Iustice of the eace in Kent, of the shire at large, hath no ore authority by this Commission, within e liberties of the citie of Cãterbury, then he ath within the shire of Sussex: because that ity is not *in Comitatu Kancia*, but it is a di- inct countie from it, euen as Sussex is.

Howbeit, some thinke, that there is not the me, but another maner of impediment for a stice of the shire at large, to doe the parts of is office within the city of Rochester: because at is no Countie of it selfe, but is *in comitatu ancia*, as other common townes are. Onely ere is a restraint in the Charter of the City, at such a forreine Iustice shall not interme- e there within that liberte: the which if he all (notwithstanding such inhibition) at-

tempt to doe, he transgresseth not the bounds of his owne Commission thereby, but breaketh into their liberties, against that Prohibition: & consequently it seemed to some (20.H. 7.6. (that his act is not meerely void of all authoritie (because it is the seruice of the King, which alwaies carieth *Nō omitas propter aliquā libertatē*, in it) but he himselfe is subiect to such punishment, as belongeth to that his temerity and vndiscreet action.

The second Clause. Enquire, proceed, heare, and determine.

The latter clause (or *Assignauimus*) of the Commission, comprehendeth the power giuen to these Iustices, as well for to enquire of all those offences that be contained therein, as to proceede, heare, and determine thereof vpon any former (or future) enditemēts: So alwaies that two of these Iustices at the least be present thereat, and so that the one of those two bee of that select number, which is commonly termed of the *Quorum*.

The Quorum

For these of the *Quorum* were woont (and that not without iust cause) to be chosen specially for their knowledge in the Lawes of the Land: and that was it which leade the makers of the Statutes (18. Ed. 3. cap. 2. 34. Ed. 3. cap. 1. & 13. R. 2. ca. 7.) expressely to enact that some learned in the Lawes should be put into the Commission of the Peace: and (to say the truth) all statutes, that desire the presence of the *Quorum*, doe secretly signifie such a learned man.

For

for, albeit that a discréet person (not conuer-
nt in the studie of the lawes) may sufficient-
follow sundrie particular directions con-
rning this seruice of the peace: yet when
e proceeding must be by way of presentment
pon the euidence of witnesses and oathes of
urors, and by the order of hearing and deter-
ining according to the streight rule & course
the law, it must be confessed, that learning
the lawes is so necessarie a light, as with-
ut the which, all the labor is but groping in
e darke, the end whereof must nédes be er-
our & dangerous falling.

This clause giueth speciall authoritie also, The branch for punishmēt
th for the punishment of offendors, and for
e correctiō of such officers as shall be found
miss: the which was suffered to remaine,
t as of any necessitie at all (seeing that the
nishment of all offendors is implied in the
ord determining, & considering that it is in-
dent to euery Court of Record, to doe cor-
ction vpon whatsoeuer officers and mini-
ers that doe serue them) but onely for the
ainer declaration of the power of these Iu-
ices in that behalfe, and for the more assured
rrifying of such as shall (either of contempt,
negligence) doe that which is amisse.

And here, least these Iustices should rather Restraint in matters of doubt.
ound their iudgements vpon the number of
oyces, than vpon the weight of reasons, this
tter Clause is shut vp with a Prouision

and restraint, that in all cases of ambiguitie & doubt, they shall spare to proceed to iudgement, and shall expect the presence, either of some one of the Iudges of the Kings Bench, or the Common Place, or at the least of one of the Iustices of Assise in that Countie, which be their more nére and ready Oracle. And yet (as Master Fitzh. fol. 7. well noteth) is not their iudgement voide, if they list to proceed without such aduise: but it standeth good and effectuall, vntill it shall bée reuersed by a Writ of Errour.

The charge to the Iustices.

The power of these Iustices hath thus appeared: now therefore let vs heare the commaundement and charge that is giuen to them, and the others.

First, these Iustices, and euerie of them, be charged to be diligently intendant about the execution of all and singular the premisses, by these words, *Et ideo vobis & cuilibet vestrûm mandamus &c.* in the end wherof there lieth a plaine sauing to the King of all such Amerciaments and other things, as shall grow due vnto him by their seruice in this Commission: of which point I will say more, in place more conuenient for it.

To the sherife

Then is the Sherife of the Coũtie commanded to be attendant vpon these Iustices, for the returne of Iuries to be made before them, by these words, *Mandamus enim tenore præsentium vicecomiti nostro Kancie, &c.* And lastly, the

Cus-

Custos Rotulorum (being one of these Iustices) hath moreouer a speciall charge by himselfe, in right of this Office, to produce the Records of the peace, to the end that they may be both perused, directed, and proceeded vpon: all which matter lieth in these words, *Assignauimus denique te præfatum Edw. Hoby militem Custodem Rotulorum pacis nostræ &c.*

To the Custos Rotulorum.

Of whose office and authoritie more shall be said in particular, whē we come to the fourth booke of this volume.

Of the Oathes, vsually ministred to the *Iustices* of the Peace.

Cap. X.

SUch as doe occupie Iudicial places, ought to take hēed what they doe, knowing (as Iehosaphat said) that they exercise not the iudgements of Men only, but of God himself, whose power as they do participate, so he also is presēt on the Bench with them: And therefore it hath been alwaies the policie of Christian lawes, to appoint meet formes of religious attestations (or Oathes) for such officers to take & cōtinue: meaning thereby, not onely to set God continually before their eyes (whom by such oath, they take to witnesse of their promise, & call for reuenge of their falshood) but also threa-

The causes why Iustices be sworne.

ten them (as it were) with temporall paines prouided against corrupt dealings: and withall to strengthen their minds, and arme their courages against the force of humane affections, which otherwise might allure and draw them out of the way.

Upon this ground, the statute (13.R.2.Stat.1.c.7.) which willed, that Iustices of the Peace should be made of new in all the Counties of England, did therewithall take order, that they should be sworne, to keepe, and put in execution all the Statutes touching their office: which albeit that it bee the first oath that I find to haue beene ministred to Iustices of the Peace, yet I thinke they were neither vnsworne before, nor at any time after, as may be collected vpon the bookes, 21.E.4.67.& 12.E.4.18.

I beleeue also, that the same manner of Oath was deuised but for that time onely, and continued not long in that forme, as being of it selfe very generall, and hard to bee obserued. And that (happily) was the cause, that it was afterward changed to that forme, which M. Fitzh. in his Booke hath left vs, and which (with the alteration of a few words only) is yet at this day kept in vse.

For vpon the renewing of the Commission of the peace (which now adaies happeneth as often as any person is newly brought into the same) there commeth (of course) a Writ of *Dedimus potestatem*, directed out of the Chauncerie

to some ancient Iustice of the Peace, to take the oath of him whose name is newly inserted: to certifie the same into that Court, at such day as the Writ commandeth.

This Writ is now accompanied with two Scedules, whereof the one containeth the oath of the Office of a Iustice of the Peace in this forme.

The Oath of the office.

YEe shall sweare, that as Iustices of the Peace in the County of *Kent*, in all Articles in the Kings Commission to you directed, yee shal do EGAL right to the poore, and to the rich after your cunning, wit, & power, and after the laws and customes of the Realme, and statutes thereof made: And ye shall not be of counsell of any quarell hanging before you: and that yee hold your Sessions after the forme of Statutes thereof made: And the issues, fines, and amercements that shall happen to be made, and all forfeitures which shal fal before you, yee shal cause to be entred without any concealement (or embesilling) & truly send thē to the K. Exchequer. Yee shal not LET for gift or other cause, but well and truly you shal do your office of Iustice of the peace in that behalfe: and that you take nothing for your office of Iustice of the peace to be done, but of the king, & fees accustomed, and costs limited by the statute: and ye shall not direct, not cause to be directed, any Warrant (by you to be made) to the parties, but ye shal direct

1. REGAL. in the printed Booke Fitzh.

2. SVRCEASE in the printed booke.

them to the Bailifes of the said countie, or other the Kings officers (or ministers) or other indifferent persons, to doe execution thereof: *So helpe you God, and by the contents of this Booke.*

3. And his Saints. in the printed booke.

The variance betwæne this and that elder forme, standeth (as you may see by the Margent) in three points: whereof twaine bee of no weight at all, but the third needed amendment. For, right godly and well did those 32 persons (that were put in trust to pen Ecclesiasticall Lawes) purpose to make this Law amongst others:

Legitimum autẽ iuramentum, iis verbis, & nullis aliis, suscipi volumus: Ita me Deus per Dominũ nostrum Iesum Christum adiuuet.

This Oath of the Office consisteth of six Articles, which (for memories sake) I haue heere expressed in these six Verses following:

1 *Doe equall right to rich and poore,*
as wit and Law extends:
2 *Giue none aduise in any cause,*
that you before depends:
3 *Your Sessions hold, as Statutes bid:*
the forfeits that befall,
4 *See entred well, and then estreat*
them to the Chequer all:
5 *Receiue no fee, but that is giuen*
by King, good vse, or right:
6 *Ne send Precept to party selfe,*
but to indifferent wight.

The other Scedule comprehendeth the

name of Oath, which (after the secõd abolish-ment of the vsurped authority of the Romish Pharaoh, by the ioyous entrie of our late gra-cious Queene Elizabeth) was in the first Par-liament of her raigne (cap. 1.) appointed for Iustices of Peace (amongst others) to take, be-fore that they should exercise the office: and it hath these words:

The Oath of Supermacie.

I *William Lambard* doe vtterly testifie and de-clare in my conscience, that the Kings High-nesse is the onely supreme gouernour of this Realme, & of all other his Highnesse Domini-ons and Countries, as well in all Spirituall and Ecclesiasticall things (or causes) as temporall: & that no forraine Prince, Person, Prelate, State or Potẽtate, hath, or ought to haue, any Iurisdicti-on, power, superioritie, preheminence, or autho-ritie, Ecclesiasticall or Spirituall, within this Realme. And therefore, I doe vtterly renounce and forsake all forraine Iurisdictions, Powers Superiorities and authorities, and doe promise, that from henceforth I shall beare faith & true allegeance to the Kings highnesse, his heires, & lawfull successors, and (to my power) shall assist and defend all Iurisdictions priuiledges, prehe-minences, and authorities granted or belonging to the Kings Highnesse, his heires and succes-sors, and vnited and annexed to the Imperiall Crowne of the Realme: *So helpe me God, &c.*

There hath been care taken, (once, or twise,

in

in our memory) to exact this latter Oath of t
the Iustices of Peace throughout the Realme,
whereof some good hath ensued: But yet ma
ny a Iustice there is, that (by indirect practise)
neuer tooke this or the former: whereof wha
harmes doe, and may grow, I leaue to wise
and higher men, to be considered: Adding thi
only, that it would auaile greatly to the fur
therance of the seruice, if the *Dedimus potest*
tem to giue these Oathes were dirigible to th
Iustices (and none other) to minister the same
not elsewhere, but in their open Sessions.

The Oath of Allegeance. See 7. Iac. cap. 6. a third Oath (tending t
the declaration of such duty as euery wel affe
cted subiect by bond of Allegeance, & comman
dement of Almightie God, ought to beare t
his Soueraigne) to be taken also by Iustices
of the Peace, among others.

Of the power, absolute, and limited, that the Iustices of the Peace haue.

Cap. XI.

Discretion. THe power of the Iustices of Peac
whether you wil consider it by th
view of this their Commission, &
by their authority contained in
statutes, is in some cases Limited, & (in other
some cases) Absolute: By which later word, I
do not mean absolute Simply, but after a Ma
ner: For, they may neither hang a man for
grieuous

ieuous Treſpaſſe, nor fine him for a Felonie: therefore this abſolute authority is to our w better known by the name of Diſcretion, auſe the Iuſtice of peace may exerciſe ſome- nes *Legis actionem*, & ſometimes *Indicis offici-*: or (which is all one) *Indicium & decretum*, y caſe ſhal offer, & the Law wil ſuffer him. t is a good Counſell which Ariſtotle giueth his Rhetoriques *ad Theodectem*, that in the king of lawes, *Quoad eius fieri poſſit quàm rima legibus ipſis definiantur, quàm pauciſſima verò Indicis arbitrio relinquantur:* and the Com- ſion of the peace (following that aduiſe) h leaue little (or nothing) to the diſcretion the Iuſtices of the peace, but bindeth them with the chaines of the Lawes, Cuſtomes, dinances, and Statutes.

Howbeit, our latter lawes of Parliament, though they alſo doe indeuour (for the moſt rt) to hold the ſame courſe: yet foraſmuch as uery conſiderable circumſtance cannot bée foreſéene at the time of the making of the Law, they doe many times leaue to be ſuppli- (by the diſcretion of the Executioner of the Law) that thing which was not conueniently mprehended before hand, by the wiſedome the Author of the Law.

And therefore, although Diſcretion bée ne- ſary in the executiõ of euery Law (be it ne- r ſo certainely ſet forth, & boũded in it ſelf) yet (in the mouth and language of our Law,)

that

that onely and properly is said to bee done
Discretion, which is not specially limited wi
all the circumstances, but is indifferently
ferred to the consideration of the Justice t
is put in trust with it.

And truely it is to be wished, That Justic
of the Peace would not (by colour of this re
rence to their Discretion, in some few case
arrogate vnto themselues authorities to
their Discretion, and to play (as it were) t
Chauncellours in euery cause that comm
before them. For, no way better shall the D
cretion of a Justice of the peace appeare, th
if he (remembring that he is *Lex loquens*)
containe himselfe within the lists of law, a
(being soberly wise) doe not vse his ow
Discretion, but onely where both the law p
mitteth, and the present case requireth
Right well said Cicero: *Est sapientis Iudicis c
gitare, tantum sibi esse permissum, quantũ sit co
missum ac creditum.*

Of the Iurisdiction, and Coertion, belonging to the Iustices of Peace.

Cap. XII.

AS Iustice cannot bee administred without both a declaration of th law and Execution of the same: S to the end that our Iustices of t peace may be able to deliuer Iustice, they a

accou

ompliſhed with double power, the one of ſdiction, and the other of Coercion, that is ay, with ample Authoritie, not only to con- the perſons but alſo (after the cauſe heard adiudged) to conſtraine them to the obedi- e of their order and decree.

This Iuriſdiction of theirs is exerciſed, for moſt part (if not altogether) about thoſe ſes, which be in a maner the ſame that the ill Lawyers do call *Iudicia publica*, partly, auſe the king (who repreſenteth the head of common wealth) hath intereſt in the moſt hem, aſwell as the priuate perſon which is mediatly offended: and partly, becauſe they not commonly tried by ſuch Action as o- r ciuill and priuate cauſes are, but rather criminall and publique Accuſation, Infor- tion, or Preſentment. Iuriſdiction.

And herein the Iuſtice of the peace is by the e halfe ſuperiour to the anciēt Conſeruator the peace, who had onely Coertion or Pre- henſion in a few caſes, and no Iuriſdiction in y cauſe that I remember.

But if the authoritie of theſe Iuſtices ſhould eaſe, when the fault is told, heard, and adiud- ed, then ſhould they be no better then halfe uſtices: and therefore the law hath alſo put ohertion, Execution, or puniſhment (as I id) into their hands, leaſt otherwiſe their dgements ſhould bee deluded for want of ower to bring them to effect.

This

Cohertion or punishment, for what causes, it is appointed.

This Punishment then, is an orderly execution of lawfull iudgement, laid vpon an offendor, by the minister of the law: and it is done for foure causes: first, for the amendment of the offendour: Secondly, for examples sake, that others may be thereby kept from offending: Thirdly, for the maintenance of the authority and credit of the person that is offended: and these three reasons be common to all such punishmēts. Seneca rehearseth the fourth finall cause, that is to say, that (wicked men being taken away) the good may liue in better security: and this pertaineth not to all, but to Capitall punishments only, as euery man may at the first hearing vnderstand.

The Romanes vsed especially, eight sorts of chastisements, knowen to them by these names, *Damnum, Vincula, Verbera, Talio, Ignominia, Exilium, Seruitus, Mors*, that is, Losse of goods, Imprisonment, Stripes, Retaliation, Reproach, Banishment, Seruitude, and Death: all which, our Law (before the Conquest) was wont to inflict, albeit that now Seruitude, and Retaliation being gone, Banishment is almost out of vse.

The sorts of punishment.

The punishments that be commonly put in execution at this day, and wherewith the Iustices of the Peace haue to doe, they be diuided into Corporall, Pecuniarie, and Infamous.

Corporall.

Corporall punishment, is either capitall, or not

ot capitall. Capitall (or deadly) punishment is done sundry waies, as by hanging, burning ling, or pressing: not capitall is of diuers sorts also, as cutting off the hand or eare, burning (or marking) the hand, face, or shoulder whipping, imprisoning, stocking, setting on the Pillorie, or Cuckingstoole, which in old time was called the Tumbrel. Of this kind of punishement, our old Law (making precious estimation of the liues of men) had moe sorts than we now haue: as pulling out the tongue, for false rumours, cutting off the nose for aduulterie, taking away the priuie parts for counterfeiting of money, &c.

Under the name of Pecuniarie punishment, I comprehend all Issues, Fines, Amerciaments, and forfeitures of offices, goods, or lands. Pecuniarie.

And if the Iustices of peace may by vertue of their Commission deale with such Conspirators as doe confederate together, to cause any persõs vniustly to be iudited of Felony, whereof afterward he is acquited (as some do thinke they may) then is there a special punishmẽt in the case appointed by law, which in 24. E. 3. 73.) is termed Villanous, & may be wel called Infamous, because the iudgement in such case shall be like vnto the ancient iudgement in attaint, (as it is said 4. H. 5. Fitzh. Iudgement 220.) & is (in 27. lib. Ass. pl. 59.) set downe to be, that their Oathes shall not be of any credite after: nor lawfull for them in person to approach Infamous.

the

the Kings Courts: and that their lands & good be seised into the Kings hands: their trees rooted vp, and their bodies imprisoned, &c. And at this day, the punishment appointed for periurie (hauing somewhat more in it then Corporall or pecuniarie paine) stretching to the discrediting of the testimonie of the offendor for euer after, may bee partaker of this name.

That Iustices of the Peace, bee *Iudges of Record.*

Cap. XIII.

IT maketh not a little, both for maintenance of the Peace, and for the credite of the Iustices thereof, that they are numbred amongst the Iudges of Record. For on the one side euildoers will be afraid, when they shall see Memorials of their wickednesse before their eies: and on the other side, the proceeding of the Iustices shall be so much the more reuerenced and set by, as it shall appeare that their endeuours are countenanced with the fauor of authority. And therfore, let vs see what is meant by the word Record.

A Record what it is.

The Latine men vse *Recordor*, when they will signifie, to keepe in mind, or to remember: in which sence the Poet said.

Sirite audita recordor.

And after the same sence also doth our Law se it. For, Records be nothing else, but Me-orials (or Monuments) of things done before dges, that haue credite in that behalfe. And erefore, where King Edw. 1. doth in the be-nning of the booke (called Britton) set forth e Iudges of his Courts, he saith of some that ey should haue authority of Record: and of hers, that they shall beare Record: both hich speeches do meane but one thing, name-e, that they shall be trusted in the report of ses happening before them: and we yet say common speech, Such a man shall beare re-rd of a thing, when wee intend to say, that remembreth it, and can beare witnesse of it. o that in the vse of the word, there is (in ma-er) no difference; and therefore let vs exa-ine the matter.

One man may affirme a thing, and another an may denie it: but if a Record once say the rd, no man shall be receiued to Auerre (or peake) against it. For (saith M Bracton fol. 6. writing of a speciall case, where the She-ife in his County hath Record) if men should be admitted to denie the enrolled acts of Court, en would there neuer bee any end of contro-uersies. And of the same mind, before him was M. Glanuile (lib. 8. c. 8.) And therefore to anoid all contention that may arise, while one saith thing, and another saith another thing, the

Law reposeth it selfe wholy & solely in the re
port of the Iudge: and hereof it commeth, that
he cannot make any Substitute or Deputy in
his Office) as M. Bracton and Britton doe af
firme) seeing that hee may not put ouer the
confidence that is put in him.

The Rolles be Records.

This Record (or Testimony) is first conta
ned within ỹ breast of the Iudge (as our Law
speaketh) & afterward cõmitted to the Rolle
which are therfore figuratiuly called Record
also. For you may see (7. H. 6. 28. in Hilde
brãds case, 19. H. 6. 9. & elsewhere) ỹ during
all the time of that Terme, in which any thing
passeth before the Iustices at Westminster, the
Record thereof is in *Scrinio pectoris*, in their
own harts, or breasts, so that they may at their
owne pleasure correct or amend it: but after
the Terme ended, it is only in their Rolles, o
uer the which they haue no controlment.

And this agreeth right well with that
which Britton (fol. 3.) affirmeth, saying, in the
Kings person, thus: And albeit that we have
granted to our Iustices to beare record of Plea
pleaded before them: yet by this wee will not
that their Record shall be any warrant in their
owne wrong, nor that they may rase or amend
their Roll, nor make record against their En
rolment.

Thus much generally of al Iudges of Record
now touching our Iustice of the peace it is the
opinion of the Court (9. E. 4. 3. and 14. H.

16.) and of diuers other bookes in our law, that euery one of them (euen by himself) is a Iudge of Record. For (as you haue heard) he is made by the great Seale, a matter of Record: & hath Iudicall power giuen vnto him, euen by the first *Assignauimus* of the Commission: He hath also a seale of his office, by the opinio of Brudnell 14.H.8.16. and if he make any Warrant, although it be beyond his authoritie, yet is it not disputable by a Constable, or other inferiour Ministers, but must be obeied: And he may take a Recognisance for the peace, as appeareth 7.H.4.34. and common experience teacheth, which none can doe, but a Iudge of Record; because the knowledging of that sum, is to remaine as a matter of Record.

Yea, by good opinion (2.H.7.1.) a *Supersedeas* of the Peace, made by one Iustice of the Peace, vnder his seale, being brought into the Sessions, is a sufficient Record to proue, that there is a Recognisance of Peace taken by the same Iustice: and it is warrant enough to call the partie bound thereupon, & if he make default, to Record the same. Moreouer, his Record (or testimonie) is in some case of greater force & value, than an Enditement vnder the Oath of twelue men: for his Record (as I will shew particularly hereafter, in place conuenient) shall conclude the partie so, that he shal not be admitted to Trauerse or gainsay it, 21.H.6.5. Fit.t.18.15.R.2.ca.2.11.H.7.c.15.& 33.H.8. ca.6.

Thus much beeing truely said of any one Iustice of the Peace: most truely may it be affirmed, that two, or moe such Iustices, sitting in the execution of their authoritie, are Iudges of Record.

Great cause haue the Iustices of Peace therefore, to take diligent heed, that they abuse not this credit: either to the oppressing of the subiect by making an vntrue Record, or the defrauding of the King by suppressing the Record that is true and faithfull.

How long time the authority of the Commissioners of the Peace is to endure: and by what meanes it may be suspended, or determined.

Cap. XIIII.

WE haue alreadie touched, that the power of the Commissioners of the peace is not perpetuall: but now the place serueth to handle it at full.

The Commissioners of the peace, are to continue during only the pleasure of the King, by whose pleasure they were at the first appointed: & therefore, by the determination of that pleasure their authoritie ceaseth also. Besides the which, there are other means to determine their

their Authoritie, as namely, the Accession of another Office: the presence of a higher power: and (in some speciall case) the want of Adiournement of their Commission.

The pleasure of the King may be determined, either by expresse word, or by implication, or by death. By expresse word.

The Kings Maiestie therefore, may discharge the Commissioners of the peace by his expresse Writ, vnder the great Seale, L. 5. E. 4. 2. And if he send a *Supersedeas* to all the Commissioners of the Peace, that will suspend all their authoritie: But yet so, as it may be reuiued by a *Procedendo:* & therefore it doth not vtterly determine their authoritie, as may bee gathered by 12. li. Ass. pl. 21.

Againe, when the Kings Maiestie maketh other Commissioners of the same kind within y same limits, it is implied thereby, (for auoiding of repugnancy in the seruice) that y former Commissioners shall haue no longer power, although there be neuer a word spoken of the discharge of them, 3. Mar. Regi. Brooke. *Tit.* Commission. 24. By implication of a new Commission.

But yet, if there be Iustices of the peace by Cōmission in a whole County, and afterward the King maketh another man Iustice of the peace, in one towne of the said County, Chocke onely against others, was of opinion (10. E. 4. 7.) that the power of the first Commissioners continued still in that towne, because that is Generall and proper Iustices.

is not altogether contrariant. And Iudge Fineux held also (20.H.7.8) that if ỳ King make a proper Iustice of the Peace within a spetiall Libertie, yet may the generall Iustices of the peace of that Shire meddle there: vnlesse there be words of Prohibition in the Patent: as, *quòd nulli alij Iusticiarij nostri se intromittant &c.*

If the auncient Commission of the peace were to foure persons, and afterward the king should make one man a ful Iustice of the peace throughout the same limit, during his life: then should the hands of the foure Commissioners be closed, saith Mar.

And a new Commission, *pro hac vice tantum*, will determine the old: So also a new Commission to heare and determine Felonies, determineth the old Commission of the peace concerning Felonies, but not cõcerning the peace. And a new Commission of the peace, *ad inquirendum tantum*, is a determination of the old Commission, *Ad audiendum & terminandum*, by Mar.

But it is plaine, by the preamble of the Statute (2 & 3. Phil. et Mar. ca. 18.) that the Law was taken, that if a Commission of the Peace were first granted to certain within a towne, and after another commission had beene granted to others within the whole shire, that this had been a *Surpersedias* to the Commissioners within the said towne.

Howbeit, this determination of the old Cõ-

mission

mission (that wee speake of) groweth not immediately by the making of a new Commission: but either after ỳ reading (or proclaiming) of the new Commission at the Sessions of the Peace, or at the ful County: or else by holding of some opē Sessions by vertue of the new Cōmission (in all which cases the old Commissioners must take notice of the new commission) or else after the giuing of notice of the new cōmission vnto the old Commissioners, for otherwise all the meane acts of the old Commissioners, be good in Law, Mar. & 21. H. 6. 29. & 34 lib. Ass. Pl. 28.

And forasmuch as some Cities and Corporate townes found themselues grieued with the Law (standing as hath beene remembred) it was specially ordained by the said Statute (2. & 3. Phil. & Ma. ca. 18.) that a Commission of the Peace & Gaole deliuery made to a Citie or Corporate towne (not being a Countie by itselfe) should not be determined by the making of such another commission afterward to any of the Shire, Lath, Rape or Wapentake, in which that City or towne standeth.

Finally, it is to be noted, that it in all cases where an ancient Commission of the Peace, is determined by a new: yet no Processe or Sute (hanging before the old Commissioners) shall be discontinued thereby. 11. H. 6. cap. 6. & 1. H. 6. cap. 7.

By ỳ death or demise of the King, dieth also

the power of al the Commissioners of the peac
made by him: for he maketh the *Iusticiarios fu*
os: so that he being once dead, or hauing giue
ouer his crown, they are no more his Iustices
and the Iustices of the nert king they shall no
be, vnlesse he be pleased so to make them. 4.E.
4.44.& 1.E. 5.1.

Accession of enother office.

It seemeth that some toke the Law to be,
that if a Iustice of the Peace were created
Duke, Marquesse, Earle, Vicount, or Baro
or were elected an Archbishop, or Bishop,
were made a Knight, or Iustice of any of th
two benches, or Sericant at the Law: that the
his Office of the Peace was determined ther
by: because it could not be thought, that (by
name being changed) hee should remaine th
same person: And so, if he were made Sherif
ỹ his Iusticeship ceased also: because (as Ma
saith) he could not be both a Iustice and an Of
ficer, to direct and serue his own precepts: an
so likewise, was it thought of him, if he wer
made a Coroner, but not so if he were made
Vndersherife.

And therfore for explanation of the law in
most of these cases, it was enacted (1.E.6.c.
that if a Iustice of ỹ peace were made a Duke
Marquesse, Earle, Vicount, Baron, Archb
shop, Bishop, Iustice of the one bench, or othe
Knight, Sericant at the Law, or Sherife, th
yet he should be Iustice of the Peace still. B
that Act was afterward vpon good reason co
trolle

...lled in part, and a new Law made (1. Mar. ...rl. 1. ca. 8.) by which it was ordered, that ...man shal exercise the Office of a Iustice of ...Peace, during onely the time that he is a ...herife of the same County, wherein he is al...so Iustice of the Peace.

Furthermore, if the Iustices in Eire (being of a higher power then Iustices of the Peace) ...e (after a Proclamation thereof first made) ...me into any county, and sit their by vertue of their authority: then ceaseth the power of the Commissioners of the peace: Mar. And he ...inketh so likewise, if the Kings Bench (vpon Proclamation thereof made) should re...oue into any County. By the presence of a higher power.

But aske of this, for if it should be so, then ...may be some questiō also, what is wrought by the comming of the Iustices of the *Nisi pri...* into the County, who doe ordinarily bring ...ommission of Oyer and Determiner, and of ...aole deliuery with them.

Lastly if Iustices of the peace, that haue a ...ommission *hac vice tantum*, do sit by vertue of ...eir Commission, and doe not Adiourne the ...me, it seemeth, that their Cōmission is deter...ined thereby. Brooke *Tit.* Commison 11. By want of Adiournemēt.

The

THE SECOND Booke, containing the Practique of one Iustice of the Peace, out of the Sessions.

That al the authority of the Iustice of the Peace is exercised, either out of the Sessions, or at (or by reason of) the Sessions of the *Peace, &c.*

CAP. I.

The summe of the first Booke.

IN the former Booke I haue dilated that which lieth in the first part of my Definition of the Iustices of Peace: and I haue therewithall giuen the Reader a Theorique (or insight) as it were of their whole Office, in shewing what it is when he began, how it is endowed, by what meanes it is maintained, and after what sort it may be determined.

But now forasmuch as all the power and seruice of those Iustices of the peace is directed to that end which is disclosed in ỹ later halfe

of the same Definition, namely, For the conser-
uation of the Peace, and for the execution of
their Commission, and of the Statutes commit-
ted to their charge, it is meete that I enter into
the Practique of their Office and dutie, & shew
you from point to point how the same is to be
done and administred.

And for the more lightsome proceeding here-
in, I will set forth the power of the Iustices of
the Peace by a Distribution, though not Essen-
tiall, yet such as may suffice to convey my
whole plot and meaning.

A partition of all that which followeth in these three bookes ensuing.

Whether therefore, the Iustices of the peace,
(by vertue of the Commission, or Statutes)
enquire, or heare and determine, by the way of
Iurisdiction, or els do kéep (or cause to be kept)
the Peace, or do punish and execute, by way of
Coertion; And whether the same also be done
by their Regular power, or Absolute authori-
tie: It is alwaies practised and done, either
out of the Sessions of the peace, or else at (or by
reason of) the Sessions of the Peace.

The summe of that which is hereafter contained in this second booke.

And that which is done out of the Sessions,
is either such, as one Iustice alone may doe: or
else it requireth the helpe and presence of o-
ther Iustices with him. And therefore, first of
that which one Iustice alone may doe out of
the Sessions.

What

What any one Iustice of Peace (o of the Sessions) may doe to preuent breach of the Peace, and therein of Surete of the Peace, and the good behauiour, and of sundry things incident vnto the same.

Cap. II.

FOrasmuch as the Conseruation of Peace standeth, partly in pro ding that it bee not broken, and pa lie in punishing such as haue alreadie v lated and broken it: and for that any one stice of the Peace is sufficiently armed w authoritie (out of the Sessions) to preuent breach of the Peace, both by taking Surete the keeping of it, and for the good behauio offendors, I thinke good first to shew wh Suretie of the Peace is: then, to open how may be commanded: after that, to declare w the same commaundement shall be executed brought to effect: fourthly, to discourse wh shall become of the Suretie when it is take and lastly, to describe the Suretie of the Go behauiour (or Good-Abearing) and to re ferre the handling thereof with that of t Peace.

The parts of this Chapter.

The ancient Normans had a manner of Sure tie of the Peace, which they named Treuers

same that we call Truce) and which they vsed to giue after this order. He of whom it was demaunded, did (in open Court) take him by the hand that demanded it, and did withal solemnly sweare, that neither he, nor any of his, should doe harme vnto him. But our Gouernours, knowing that euil men be more restrained by losse of goods, then by conscience of an oath, haue vsed to take sure bond, & that to the King, for the securitie of such as be in feare. And therefore I will (at this day) call Suretie of the Peace, An acknowledging of a bond to the King, taken by a competent Iudge of Record, for the keeping of the Peace. And it is called Suretie, of the word *Securitas*, because the partie that was in feare, is thereby the more secure and quiet.

What Suretie of the peace is

This Suretie may a Iustice of the Peace cõmaund, either as a Minister, when he is willed to doe it by a higher authoritie: or as a Iudge, when he doth it his owne power deriued from his Commission.

He doth it as a Minister, when the writ of *Supplicauit* (which in old time was called *Breue de Minis*, as appeareth by the Register) directed out of the Chancery, is deliuered to his hands: for then, he onely is to direct his Precept, to compell the partie (vpon that writ) to find Suretie for the Peace. 21.H.7.20.Fineux.

Suretie of the Peace taken vpõ a Supplicauit, by a Iustice of the Peace as a Minister.

The forme of which Precept (or warrant) may be thus in English.

GEORGE

GEORGE MVLTON, one of the Iustices of Peace of our Soueraigne Lord the Kings Maiestie within the Countie of *Kent*, To the Shirife of the said shire, the Constables of the hundred of *Wortcham*, the Borsholder of the towne of *Ightham*, and to all and singular the Kings Maiesties Bailifes, and other Ministers, aswell within Liberties as without, in the said Countie, and to euerie of them greeting: Know yee, that I haue receiued the commaundement of our said Soueraigne Lord in these wordes (reciting the whole Writ of *Supplicauit*, which is not alwaies of one forme, because it is sometimes directed to all the Iustices of the Peace, sometimes to them and the Sherife, and sometimes to one Iustice alone) or reciting onely the effect of the *Supplicauit* thus.

Know ye that I haue receiued the commaundement of our said Soueraigne Lord, to compel *A.B.* of *Ightham*, in the said Countie Yeoman, to find sufficient Suretie for his Maiesties peace by him to be kept toward *C.D.* of the said town of *Ightham* Taylor: And therfore on the behalf of our said Soueraigne Lord, I commaund and charge you iointly, and seuerally, that immediatly vpon the receipt hereof you cause the saide *A. B.* to come before mee at my house in *Ightham* aforesaid, to finde sufficient Suretie and mainprise for the Peace to bee kept towards

wards our said Soueraigne Lord, and all his liege people, and especially towards the said *C. D.* And if hee the said *A. B.* shall refuse thus to doe, that then you him safely conuey or cause to bee safely conueied to the next Gaole of his Maiestie in the said Countie there to remaine vntill that hee shall willingly doe the same: So that hee may bee before the Iustices of the Peace of our said Soueraigne Lord within the said County at their next generall Sessions of the peace (to bee holden at M.) there to answere to our said Soueraigne Lord for his contempt in this behalfe. And see that you certifie your doing in the premisses, to the said Iustices of the said Sessions bringing then thither this Precept with you. Yeouen at *Ighthum* aforesaid, vnder my seale the fourth day of &c.

Suretie of the Peace taken by a Iustice of the peace, as a Iudge.

A Iustice of the peace, may also (by vertue of his office, and as he is a Iudge) command this Surety to be found: and that, either of his own motion and discretion, or els at the request & prayer of another.

By his owne discretion.

For he may cause a common Barrettor, Riotor, one that maketh an Affray, or other person to him suspected, to finde Surety of the Peace 9. Edw. 4. 3. *Curia.* And if he see men contending in hot words, and threatning the one to hurt (or kill) the other, he may of discretion, and ought of dutie (as I thinke) to command them to find Suretie of the Peace,

and

and thereby prouide for their mutuall safeties.

For, as he is put in trust with the care of the Peace, so ought he both to imploy his wit, and to vse his authority, to preuent the breach of the same.

And if a man that was bound to keepe the Peace, haue broken his bond, the Iustice of Peace ought of discretion to bind him of new 21.E.4. 40.& Mar.

And his authority is so little to be controlled in this matter, that M.Marow is of the opinion, that if a Iustice of the peace should procure one man to demand Suretie of the Peace against another, and he himselfe should grant a Warrant for it, by which the partie is arrested, yet no Action would lie against that Iustice for his so doing, because hee might haue granted it without any demand made: and then it shall not be said, but that he saw cause both for to prouoke the party to aske it, and for himselfe to grant it.

Suretie at the request of another.

In commanding this Surety (at the suit of another, or of his owne discretion) sundrie things are wisely to be considered: first, for whom, and against whom: then, for what cause, and how it ought to be required or commanded: and lastly, by what meanes it shall be inioined.

For whom, and against whom Suretie of the peace lieth.

The wife (if she be threatned to be killed, or to bee outragiously chastised by her husband) may with good reason demand ỹ peace against him,

him, Fitzh. Na. Br. fo. 80. & 230. And I do not doubt but that a Iuſtice may (in ſuch a caſe happening in his preſence) command it vpon his owne diſcretion.

The husband alſo may demand the peace against his own wife in like caſe: and any man may demand it againſt the wife of another. Marrow.

A man attainted of Treaſon, or Felony, or conuict of Hereſie, or Abiured, a Dumbe man, or an Infant (though within 14. yéeres of age) or a Villaine againſt his Lord, may demand, and ought to haue ſurety of the Peace, Marr. And I doe not find any ſtrong reaſon, why the Lord againſt his Villaine, or another man againſt a dumbe man that is not deafe, or againſt the Infant aboue the age of 14. yeeres, ought not (vpon good cauſe) to haue it, though perhaps the two laſt cannot be bound for thẽſelues. But a mad man ſhall not haue Surety of the peace, at his owne requeſt (as M. Marr. thought) becauſe he haue no diſcretion to aſke it: and therefore (if there be cauſe) he ought to be prouided for by the diſcretiõ of the Iuſtice, as I thinke.

Neither ſhall Surety of the Peace be granted againſt a Mad man, except ye haue *Lucida enterualla*, that is to ſay, certaine reſpites and eaſes from his Lunacy, in which hee may ſeeme to haue the vſe of reaſon & right iudgement.

A man attainted in a Præmunire, or that is an Alien borne (and no Denizen) ought not to haue this Suretie at his desire, as M. Marr. taketh it: but perhaps he would haue changed his opinion, in the case of Præmunire (if he had liued at this time) vpon sight of the Statute 5. Eliz. ca. 1. for such a man may not now be killed, as though he were out of the protection of the King: and as touching the Alien, some thinke there ought to be a difference, betwixt such an Alien as is of the Enmity of the King, and him that is of his Amity, for the Statutes (Mag. Car. ca. 30. 9. E. 3. ca. 1. 14. E. 3. Stat. 2. c. 2. and sundrie others) do al vse that difference in Marchant strangers, and doe prouide, that such of them as be not Enemies to the Realme may both safely come into the Realme, and tarrie heere, and goe hence, at their free pleasures.

But the case may beare some doubt, because the Commission it selfe séemeth to authorize the Iustice of peace, no further then to prouide for the Kings people, of which number no Alien seemeth to be. But, why any Alien may not be bound to the Peace, I doe not yet vnderstand.

Furthermore, one Iustice of the peace (saith M. Marr.) may grant this Surety to any man against one of his fellow Iustices. But as M. Marr. requireth a Discretion in a Iustice of the peace, when Suretie is craued of him against a

Sheriffe

Sheriſe, Coroner, Eſchetor, or ſuch other Offi-
cer, (whom he wiſheth not to be bound to keep
the Peace *verſus cunctum populum*, but onely to-
wards him that prayeth it, leaſt otherwiſe it
ſhould argue them to be vnworthie of ſuch of-
fices) ſo, much more he ought to vſe good diſ-
cretion, in granting it againſt his fellow Iu-
ſtice, leaſt otherwiſe he doth bring the office in
contempt, and himſelfe to reproofe by it. But
I doubt not, that one Iuſtice of Peace (if he
will) may pray Suretie of the peace at the
hands of his fellow Iuſtice againſt another
perſon: and the Recogniſance may then be ac-
cording to the common forme, with *Et præcipuè
verſus &c.*

Hitherto of thoſe, for whom, and againſt
whom, the Iuſtice of Peace may graunt this
Suretie when it ſhall be required: which will
ſuffice to giue him light what to doe in other
like cauſes.

But ſome others there be perhaps, with
whom he may not well meddle: As if a man
haue cauſe to require the peace againſt a Lord:
he for ſo ſmall a cauſe is not to be arreſted (as
I take it) by warrant from a Iuſtice, nor yet
by a *Supplicauit* out of the Chauncerie. But
the Lord Chancelor may in ſuch caſe grant to
the partie a *Subpœna* againſt that Lord for the
peace, as it ſeemeth by 35. H. 6. Fitz. Tit. *Sub-
pœna* 20.

Suretie of the peace againſt a Lord.

For, ſuch an opinion hath the law conceiued

of the peaceable disposition of Noblemen, that it hath béene thought enough to take one of their promises vpon Honour, that he would not breake the peace against a man. Brooke, *Tit.* Contempts. 6. 17. E. 4. 4. and 24. Ed. 3. 33. and *Subpœna*. Fitz. 20. But whether the Lord Chancelor may award an Attachement vpon such a *Subpœna*, it hath béene (in our memorie) made a question.

And if there bée cause to aske the Peace against one that dwelleth in the Cinque Ports, that must be by writ out of the Chauncery, directed to the Constable of Douer, and the warden of the Cinque Ports, Fitz. Nat. Bre. 80. & Regist. 88.

For what causes Suretie of the peace may be required.

The cause, for which this Suretie of the peace may be required (or commaunded) appeareth in the first *Assignauimus* of the Commission of the peace, in these words. *Et ad omnes illos qui aliquibus vel alicui de populo nostro de corporibus suis, vel de incendo domorũ suarũ minas fecerint, ad sufficientem securitatem de pace &c. inueniendam &c.* which M. Fit. (fol. 8.) construeth thus: He that is threatned that he shall be hurt in his bodie, or that his house or goods shall be burnt may demand Suretie of the peace for his safegard in that behalfe. But (saith the Court 17 Edw. 4. 4.) If a man will demand the Peace because he is in feare that another man will take and imprison him, it ought not to be granted: and one yéeldeth the reason to be

because he may haue a Writ *De homine replegiando*, or an Action of false imprisonment, and may thereby recouer the dammages of his imprisonment.

The same reason might be made against the demaund of the peace, where a man is threatned with Batterie: & yet it is cleere, that in such a case the Suretie of Peace ought not to be denied him: and truly to threaten imprisonment, is within the words, *Minas de corporibus*, no lesse then Batterie it selfe: & like harme may happen by hard imprisonment, and cruell beating. It shall be good therefore, to enquire of this matter.

But I take it somewhat cleere, that a Iustice of the Peace may not (by this Commission) award a Precept of the peace, in the behalfe of a man that will require it, because he is at variance with his Neighbor, or feareth that he will doe harme to his seruants, or cattell. For in that case M. Fitz. helpeth him with an old writ to the Sherife, as he findeth it in the Register, Fitz Nat. Bre. 80.

How Suretie of the Peace is to be required.

The Peace being thus (for good cause) required, it is the cõmon manner to exact an Oath of the partie: whereby the Iustice may be the better enformed and led to thinke, that he doth not aske it for malicious veration of another, but of very feare, and for the needful safety of himselfe, and his. And M. Fitzh. (in his Nat. Bre. Fol. 79.) laboureth to shew, that the Iusti-

By Oath.

tes of the Peace ought not (without such an Oath) to grant this Surety at the suite of any man: For as much as not onely the Iudges of the Kings bench doe yet take an Oath in such case, but the auncient course of the Law was such in the Chauncerie it selfe also, although it be now a daies otherwise vsed there.

Now, that a Iustice may in this case the better iudge of this Feare, let him hearken what M. Bracton (fol. 16.) saith: *Metus est* (saith he) *præsentis, vel futuri periculi causa, mentis trepidatio: talis enim debet esse metus, qui in se continet mortis periculum, vel corporis cruciatum.* And therefore, if a Iustice of the Peace do perceiue, that the Peace is demaunded against such a person, as for his impotẽcy is not like to break the peace, he may safely denie it, saith M. Marrow: But *Satius est peccare in alteram partem*, as I suppose: least (if he be slaine that demaunded it) the Iustice be worthily blamed, for that he prouided not for his life and safetie. Besides all which, the common forme of the Recognisance, is to bind a man from procuring hurt, the which any impotent man is sufficient to accomplish.

By what means Surety of the Peace shalbe enioyned.

By Word.

It resteth, that I shew by what means this Suretie may be enioyed: and this is, either by Word, or by Writing vnder seale. For a Iustice of the Peace may by word only command a man (being in his presence) to find Suretie of the Peace, 9. Edw. 4. 3. for, seeing that he

is

is a Iudge of Record (saith M. Fitz. fol 8.) his precept by mouth, is stonger then his precept in writing.

So, if the peace be demanded against one that is in his presence, he may command the Sherife or other knowne Officer, or his owne seruant (if they be then present also) to arrest the partie to finde this Surety, 14. H. 7. 8. & Marrow. For, it is not so much the arrest of the Minister, as of the Iustice himselfe.

But if either the Officer, Seruant, or Partie, be absent, then it is requisite to make a Warrant (or Precept) in writing: The forme wherof may be thus in English: For, I see no cause yet, why it should be directed in Latine, to a Constable, or Borsholder, that (by all presumption) vnderstandeth no Latine at all. By writing.

IAMES by the grace of God, &c. To our Sherife of *Kent*, the Constable of the hundred of *Wroteham*, the Borsholder of the towne of *Ightham*, and to all and singular our Bailifes, and other our Ministers in the said Countie as well within liberties as without, Greeting. Forasmuch as *A.B.* of *Wroteham*, aforesaid Yeoman, hath personnally come before *George Bing* of the said towne Esquire, one of our Iustices of the peace within the said County, & hath taken a corporal oath, that he is afraid that one *C.D.* of *Shipborne*, in the said County Yeoman, will beate, wound, maine, or kill him, *Kant:* The Precept for the peace

All, or any one of these cau es may suffice.

or burne his houses, and hath therewithall prayed suerty of the Peace against the said *C. D.* Therefore we command and charge you iointly and seuerally, that immediatly vpon the receit hereof, you cause the said *C. D.* to come before the said *G. B.* or some other of our said Iustices, to find sufficient surety and Mainprise, as well for his appearance at the next Quarter *Sessions* of our peace to be holden at *M.* in the said County, as also for our Peace, to bee kept towards vs, and all our liege people, and chiefely towards the said *A. B.* that is to say, that hee the said *C. D.* shall not doe, nor by any meanes procure or cause to be done, any of the said euils, to any of our said people, and especially to the said *A. B.* And if hee the said *C. D.* shall refuse thus to doe, that then immediatly without expecting any further Warrant, you him safely conuey, or cause to bee safely conueied, to our next prison in the said County, there to remaine, vntill hee shall willingly doe the same: So that hee may bee before our said Iustices, at the said next generall Sessions of the Peace to bee holden at *M.* aforesaide, then and there to answere vnto vs for his contempt in this behalfe. And see that you certifie your doing in the premisses to our said Iustices at the said Sessions, bringing then thither this Precept with you. Witnesse the said *G. B.* at *Wroteham* aforesaid, the fourth day of August, &c.

Or thus, in the name of the Iustice himselfe, *Mutatis Mutandis.*

EDward Wotton Knight, one of the Iustices of the Peace of our Soueraigne Lord the King, within the said County, to the Sherife, &c. greeting. *Kanc:*

Forasmuch as *A.B.* &c. hath personally come before me, &c. These shall be therefore on the behalfe, and in the name of our said Soueraigne Lord, to command you iointly, &c. to come before me, or one other of his Maiesties said Iustices of the Peace in the said County, &c. Giuen vnder my Seale at *W.* aforesaid, &c.

It is meete that the Precept for the Peace doe expressely containe the clause of the peace, within it: for otherwise, how can the Officer or Party take knowledge that surety must be prouided for it? Yea, (by the way let me say it) euery Precept (made by a Iustice of the peace) ought to comprehend the special matter vpon which it proceedeth: euen as al ỹ Kings Writs doe beare their proper cause in their mouth with thẽ. And as for their Forme that is now commonly vsed (to answer to such things as shal be obiected, & such like) they were not fetched out of the old learned Precedents, but lately brought in by such as either knew not, or cared not, what they writ.

The Warrant of the Peace is the better also if

if it beare date of the place wher it was made: for if a man be to plead such a Precept for his excuse in an Action of false imprisonment brought against him, he ought (in his Plea) to shew the place where the Warrant was made, 14. H. 8. 18.

And this Precept may also be directed to any indifferent person by name, though he be no Officer at all: for so it seemeth to bee permitted in the Oath of the Iustices of the peace, and so is that Booke also 14. H. 8. 18.

The which libertie the Iustices in some shires do vse and take, accustomably directing their precepts to priuate men of their owne election and choise: But yet I take our Kentish course to be the safer way, were we commonly write to the sworne Constables and Borsholders onely.

How the commandement of the Peace shal be executed.

The commanding of suretie of the Peace hath thus appeared: and now the execution, and bringing of that commandement to effect must next be disclosed.

The execution of this Precept stãdeth partly in serving the Precept it selfe: and partly in taking the Recognisance, if the partie doe come with Sureties, and if there be no let in the way.

And because (for the most part) there is but one and the same maner of doing, whether the precept come from the Iustice of the Peace, as he is a Minister, or as hee is a Iudge, I also will

ill handle them together, noting by the way, ose few differences that shal arise betweene em.

If such a precept be made iointly to twaine, et the one alone may serue it: if it be directed the Sherife, then he may command his Baife, Undersherife, or other sworne & knowen fficer, to serue it, without writing any precept. But if he will commaund another man (that is no such Officer) to serue it, he must giue him a written precept: for otherwise a Writ of false imprisonment will lie for the Arrest. And if it be directed to the Bailife, or to a seruant of a Iustice of the Peace, or other stranger, they must serue it themselues: for they can command none other to do it, neither by word, nor precept Marrow.

The seruing of the Precept for the peace

A sworne and knowne Officer needeth not to shew this Warrant, when he doth serue it upon a man, 8.E.4.14. and 20.H.7.13.&c. for his Office doth (after a sort) authorize him. But if the Iustice will set his seruant to serue it, that seruant must shew the Warrant, if the partie demaund it: and otherwise the partie may make resistance, 8.E.4.14.

A Iustice of the peace (saith M.Brooke, *Tit.* Peace 9.) may make this Warrant returnable before himselfe, and the Bailife needes not to carry the party before any other Iustice: But Iudge Fineux (21.H.7.20.) saith, that if a Iustice of the Peace do make a Warrāt of ỹ peace

Ex

Ex officio, (that is, without any Writ of *Supplicauit* awarded) then the partie may chuse to appeare before him, or any other Iustice in the shire: & that he shal punish the Bailife in false imprisonment, if he doe otherwise, compell him: Otherwise it is in the execution of the Writ of *Supplicauit*: for he alone to whose hands it first commeth, is authorized to execute and returne that Writ. And therupon M. Fitzh. (in his Natur. Br. Fol. 81.) affirmeth that if such a Writ of *Supplicauit*, be deliuered to the Sherife, thē he may both execute it alone, and also take Surety by Recognisance, which otherwise (being but a Conseruator) he could not doe, because the Writ doth so enable him, yet Littleton (9.E.4.31) is to the contrary.

The Officer ought also to require the party to come and finde suretie of the peace, before that he doe arrest him by the opinion 5.E.4. 13. And in truth, the common forme of the Precept is, And if he refuse &c. then he shall conuey him to the Goale: and therefore if he yéeld to come and to finde Suretie, the Officer may neither absolutely arrest him, nor take any fee of him.

And this may be the cause, that when one appeareth vpon such a Warrant before the Iustice of peace, the Iustice needeth to demand suretie of him, but may commit him, if he doe not offer suretie 4.H.7.9.

If a Bailife do arrest a man for the peace, be-

fore

ze that he haue any Warrant, and then afterward do procure a Warrant for it: this nevertheleſſe is vnlawfully done, and will not excuſe him in an action of falſe imprisonment: *idem*: but if the Bailife doe cauſe one (by force of a warrant) to come & find Surety of the peace, and when the partie is brought, the Iuſtice will not bind him, yet the Bailife is excuſed. 21. H. 7. 22.

If Suretie of the Peace be required at the hands of a Iuſtice of the Peace (that dwelleth out of the Countie) againſt a man within the Countie, the Iuſtice may grant a Precept to be ſerued in the County: but when the party ſhal be thereupon warned, and commanded to find ſuretie, the Officer may not carrie him out of the Countie to the Iuſtice of the Peace that made the warrant. Mar. For a Iuſtice of the Peace hath no authoritie, but in the Countie where he is Iuſtice. 13. E. 4. 8. & *Comment. Plowd.* 37. and therefore it may be doubted alſo, whether ſuch a warrant be good or no.

The Caſe was there, that a Iuſtice of Peace in one Countie, purſued a Felon & toke him in another Countie, wherupon it was holden, that he ought to be committed to the Goale of the County wherein he was taken, and not of the Countie wherein he which toke him was a Iuſtice: for that, he (being out of his Countie) had no more authority then a priuat man. But yet, the Bailife may not diſpute the ſufficiencie,

ciencie, or insufficiency of such a Warrant, because he that awardeth it is a Iudge of Record 14.H.8.18.

That which hath bin hitherto said, is of the execution of the former part of the warrãt for the peace, that is to say, to warne and cause the partie to come and finde suretie for the peace: But if it fall out, that he refuse to come & put in such Surety, then may the Officer, by vertue of his Warrant conuey him to prison: For (if you remember) the words are, And if he shall refuse, then, &c. And if he add resistance to this refusall, & make assault vpon the Officer, then may that Officer iustifie ỹ beating or hurting of him, 21.H.7.39. Fineux. But for our better proceeding, let vs here cõsider what an arrest is.

Beudee in his Greek Commentaries, is of the opinion, that the French word (Arrest) which with them signifieth a Decree, or iudgement of a Court, toke beginning of the Greeke Areston, that is, *placitum*, and (as wee might say) the pleasure (or will) of a Court.

And albeit that it were not out of our way, to think that it is called Arrest, because it stayeth (or resteth) the party: yet I beleeue rather that we receiue the name from the Normans Lawes, because wee vse it in the same sence with them: for commonly (with vs) an Arrest is taken for the execution of the commaundement of some Court, or of some Officer in Iustice. But howsoeuer the name began, An Arrest

rest is a certaine restraint of a mans person, de-
priuing it of his own will & liberty, & binding
to become obedient to the will of the Lawe:
and it may be called the beginning of Impri-
sonment. The Precepts and Writs of the high-
est Courts of Law, doe vse to expresse it by two
sundry words as *Capias* and *Attachias*, which
doe signifie, to take (or catch) hold of a man.
But this our precept noteth it by the words,
Duci facias, cause him to bee conueied &c. for ỹ
the Officer hath (after a sort) takē him before,
in that he commeth vnto him, and requireth
him to goe to some Iustice of the peace.

To this Arrest, all lay persons (vnder the
degree of Lords, or Peeres of the Realme) be
subiect: & Ecclesiasticall persons (if they bee
not attendant vpon diuine seruice) may be ar-
rested for the Peace also, Mar.

The end therefore is, that if the party will
not come to find surety of the peace, ỹ Officer
may (vpon that Warrant) arrest and carie him
to the Goale, where he shall remaine, vntill
that he will freely offer, and find it.

Deliuerie of him that is imprisoned for refusing to find Suretie.

And here it is good to be enquired, whether
the Release (or Death) of him that praied the
peace, will not be sufficient cause to deliuer
such a prisouer: and if it shall be, then by what
order he shal be deliuered. For as it seemeth to
some, that any Iustice of the peace may (vpon
his offer) take the suretie, and deliuer him: so
it may bee some doubt, whether hee may bee

de-

deliuered (vpon the death, or release of the party) without the helpe of a Sessions or Gaole deliuerie.

It appeareth (4.E.4.18.) and by the opinion of Brian, 2.H.7.2.&4. that if such an impriſonned person had a ſute hanging in the Common Place afore hand, he might by a Writ of priuiledge be discharged of the impriſonment, if the party (at whoſe ſute he was arreſted for the peace) were not ready in Court at the day of the returne of the writ when he ſhould be called to pray there againe the ſuretie of the Peace against him: and he ſaith, that it had been alwaies the common courſe ſo to doe: but others there were of a contrarie opinion.

And it ſeemeth a hard caſe, that without any ſufficient notice of ſuch a remouing of the partie, a man ſhould be defeated of his ſuretie for the peace.

To what Iuſtice he that is arreſted, may goe.

But now (to goe forward) if the party ſhall yeeld to finde ſurety of the peace, then may he be at his libertie (if the precept proceed *Ex officio* & without the writ of *Supplicauit*) to goe to any other Iuſtice of the peace, to offer his ſurety. For ſuch (as I told you before) is the opiniõ of the Iudge Fineux 21.H.7.20. though maſter Brook (Peace 9.& Faux impriſon. 11.) liketh better to giue the election thereof vnto the Officer.

And I doe remember, that a Iuſtice of the Peace was (by order in the Starre Chamber)

thruſt

ust out of the Commission, onely because he fused to accept Suretie of the peace, offered nto him, vpon a Warrant awarded by one his low Iustice, to whom the party (as he alled-d) durst not goe to giue it, for feare that hee ould execute vpon him the malice that hee re against him.

But here againe the Officer had need to be uised, lest he finde much trouble in follow-g the party, whether he shall please to leade m. For as there may be iust causes to yeeld nto the request of a man ỹ shall dislike to bee ought before that Iustice which gaue out the Warrant, either for some matter of priuat dis-leasure, or for the great distance of his dwel-ng, or for other reasõs: So yet (without good legation made) I allow not, that the Officer all be drawne out of the Diuision and limit here both he and the partie do dwel. For in doing, the Officer, and not the Offendor ay seeme to be punished by the seruice.

Hereupon also it happeneth often that such rsons (chosing rather to be bound by any o-er, then by him that maketh the Warrant) offer themselues, and do become bound be-e some other Iustice: and do withal procure *Supersedeas* from him to be discharged of any her arrest to be made vpon them. Yea, and any times (hearing of such Precepts & mis-king to be bound in the countrey) they go vp Westminster, and giue suretie of the Peace

there, either in the Kings Bench for a time ... ly (as the manner of that Court is) or in ... Chācery for euer, or for a time (as they ble... and doe thereupon procure a *Supersedeas* fro... the Court where they are bound, to close t... hands of the Countrie Iustices. And therefo... it is not amisse to say somwhat of this matt... of *Supersedeas* thus falling in the way.

Supersedeas by a Iustice of Peace.

If therefore a Iustice of the peace, will (by ... *Supersedeas*) discharge a precept for the pea... (awarded by his fellow Iustice, by vertue ... his Office, not by force of a *Supplicauit* whi... is of a higher nature, and cannot bee so ano... ded) then shall he doe well, to take the Recog... nisance after the selfe same sort, in all point... as the forme of the former Precept doth re... quire.

For, as it is good reason, that (hauing taken ... Suretie for the peace) he may by his Supersc... deas saue the party from finding other surete... for the selfe same cause: So is it not reason... ble, that he should proceed otherwise, then ac... cording to the first Precept: and thereby dis... charge a matter of Record that was made ... by one of equall authority with himselfe. Fitz... Fol. 9.

But this Supersedeas (sent by a Iustice of ... Peace) is sufficient, although it neither name... the Sureties, nor contain the summes in which ... they are bound: Yet is it the better forme to ... expresse them both: as well because the higher ...

Courts

Courts vse so to do, as also that if the Bailife, Constable, or other Officer (to whom it is deliuered) be called at ỹ next Sessiõs (by the suit of him that ought to haue the Peace) to shew how he hath executed his warrant, and do come and shew forth the Supersedeas, thẽ the partie that is bound may be called therupon at the day that appeareth to be limitted vnto him by the Supersedeas: for it is vnder ỹ seale of a Iustice, and doth testifie that the party is bound, hath found surety, to appeare at a certaine day: and if he make default, that (being Recorded) shal be sufficiẽt to cause him to forfeit the penaltie of the Recognisance, although the Iustice that awarded it, shall omit to bring in the Recognisance it selfe, according as he ought now to doe by the Statute 3. H. 7. cap. 1. And this may bee gathered vpon the optiõ 2. Henr. 7. and may also be seene by this forme of the Supersedeas here vnder writ-ten.

The forme of a Supersedeas, by a Iustice of the peace.

William Sedley Esquire, one of the Iustices of the Peace of our Soueraigne Lord the King, within the Countie of Kent, to the Sheriffe, Bailifes, Constables, Borsholders, and other the faithfull Ministers, and subiects of our said Soueraigne Lord within the said Countie, and to euery of them, sendeth greeting: Forasmuch as *A. B.* of &c. Yeoman hath personally come before me at *Alesford*, &c. and

hath found sufficient suretie, that is to say, *C.D.* and *E.F.* &c. Yeomen, either of the which hath vndertaken for the said *A.B.* vnder the paine of xx. lib. and he the said *A.B.* hath vndertaken for himselfe vnder the pain of xl. lib. that he the said *A.B.* shall well and truely keepe the peace toward our said Soueraigne Lord, and all his liege people, and specially towards *G.H.* &c. Yeoman, and also that he shall personally appeare before the Iustices of the peace of our said Soueraigne Lord within the said Countie, at the next generall Sessions of the Peace to be holden at M. there: Therefore, on the behalfe of our said Soueraigne Lord, I commaund you and euery of you, that yee vtterly forbeare and surcease, to arrest, take, imprison, or otherwise by any meanes (for the said occasion) to molest the said *A.B.* And if you haue (for the said occasion, and for none other) taken, or imprisoned him, that then you doe cause him to be deliuered and set at libertie, without further delay. Yeouen at *Alesford* aforesaid vnder my seale this last day of Iuly, &c.

This *Supersedeas* may also be in the name of the King, vnder the Teste of the Iustice of the Peace, thus:

IAMES by the great of God &c. to the Sherife &c. greeting: Forasmuch as A.B. hath

ome before *Thomas Fane* Knight, one of our uſtices of Peace within our ſaid Countie, and ath found, &c. We therefore commaund you nd euery of you, that yee forbeare &c. Witeſſe the ſaid T.F. &c.

Thus much of the *Superſedeas* iſſuing from a uſtice of the Peace, the which ought to withold and ſtay the proceeding of his fellow Iuſtices in ỹ ſaid cauſe: inſomuch that if any Officer by any of their Warrants, hauing this *Superſedeas* deliuered vnto him, will neuertheleſſe vrge the partie to find new Suretie for ỹ peace, he may refuſe to giue it, & (if he be committed to priſon for ſuch his refuſall) he may (as I thinke) haue his Action of Falſe Imprisonment againſt the Officer vpon the ſame.

Superſedeas out of an higher court.

I read (21.E.4.40.) that a *Superſedeas*, proceeding out of the Chauncerie, will diſcharge a uretie of peace taken before the Iuſtices in the ench of the King: Much more then, will a *Superſedeas*, ſent out of the Chauncerie, or the ings Bench, diſcharge a Precept for the peace hat is awarded from an inferiour Iuſtice of he Peace. And if the Iuſtice of Peace to hom a *Superſedeas* out of ſuch an high Court hall be deliuered, wil not thereupon ſurceaſe, n Attachment may bee awarded againſt him or his contempt, and he may bée impriſoned nd fined for it.

It is good counſell therefore, that M. Fitzh.

in his Na.Br.fol.238. giueth, where he willeth the Iustice of ỹ peace (after such a Supersedeas receiued) to forbeare to make any Warrant to arrest the partie: and if they haue awarded it, then to make their owne Supersedeas to the sherife and other Officers, thereby commanding them to surcease to put it in execution.

The taking of a Recognisance for the peace.

This impediment of Supersedeas (lying after this sort, as you haue seene, in the way to the Iustice of the Peace) thus passed ouer, let vs now suppose the partie serued with the precept, to come before some Iustice of the Peace: and let vs enter into the taking of the Recognisance of him: for that is one part of the Execution of the Warrant for the peace, & may doe seruice, whether the partie come to him that made the Precept, or goe to any other.

If the Iustice of the peace deale in this matter, as a Iudge, and by vertue of his commission, then the number of the Sureties, the sum of their bond, their sufficiency in goods (or lands) the time how long the partie shall be bound, and such other circumstances, are referred wholy to his whole consideration: and if hee be deceiued in the ability of the Sureties, he may compell the partie to put in others, Mar. For the auoiding of which deceit also, the Iustices of the Common place (7.H.6. 25.) did examine the abilitie of the Sureties vpon their Oathes, &c.

The common manner is, to take two sure-

ties

es beſides the partie himſelfe: and good rea-
n it is ỹ thoſe ſhould bee ſuch as haue their
mes regiſtred in the booke of Subſidie: for
beit that here & there ſome may be ſufficient
at were not aſſeſſed to the King, yet it ſtan-
th not well together, that he ſhould become
und to the Kind in x. or xx. pounds, that was
t in the Subſidie found worth any thing at
. And, the caſe may be ſuch that ſureties on-
, not the principall party ſhall giue ỹ bond:
or if the peace be praied againſt a Wife, or
Infant vnder the yéeres of diſcretion, they
all be bound by their Sureties only, as was
e Monke, or Chanon, 36. H. 6. 23.

But if the Iuſtice of peace ſhall command
e peace as a Miniſter in executiõ of the writ
Supplicauit, then muſt he behaue himſelfe as
e writ it ſelf directeth him: and that hath not
ene alwaies after one manner.

For ſome forme commandeth him to take
fficient Mainucaptors, in any paine or ſumm
be reaſonably ſet by himſelfe, ſo that he will
anſwerable for it at his owne perill: & ſome
illeth him to take ſufficient Surety, in a
mme certainely preſcribed vnto him, as an
ndred pounds in al, or euery of them in xx. l.
s it may be ſeene at large, in the Regiſter of
Writs fol. 89.

A Iuſtice of the peace (ſaith M. Marrow) may
ake this Suretie by a Gage, or Pledge, which
al not be forfaited therby, but pawned only,

so that the party shall (vnder a certaine paine) keepe the peace, which pawne he shall forfeite, if he breake the Peace. And (by his opinion) a Iustice of the Peace may also take this Surety by an Obligation made to himselfe, by the name of Iustice of the Peace: For so shal it be (saith he) *ad vsum Domini regis*: But if it were made vnto him without his name of Iustice of the peace, then it could not be to the vse of the King, vnlesse it had the words, *ad vsum Domini Regis*.

M. Fitzh. on the other side (in his Nat.bre. fo. 81.) holdeth, that such an Obligation taken to the King, by a Iustice of the Peace, is nothing worth: for a man cannot be bound to the King (saith he) but only by matter of Record: vnlesse he will afterward come into a Court of Record, and confesse it to bee his deed, and pray that it may be Enrolled there.

But the new Statute (33. H. 8. cap. 39. hath made a plain law in these cases, and willeth that all Obligations and Specialties (made for any cause touching the King) shall be made in his owne name by the words, *Domino Regi*, and to none other person to his vse. And it ordaineth further, that such bonds shall be of the nature of a Statute Staple: and that if any person take any Obligation otherwise, he shall be imprisoned at the pleasure of the King, or of his honourable Counsell.

The safe way therfore, is to take this surety by

by Recognisance, as is commonly vsed, and that also by the words *Domino Regi:* and then (vpon the forfeiture thereof) the King shall haue execution accordingly.

Now, if a Recognisance be meant to be taken for the peace, by a Iustice of the peace, and yet do not containe within it (or in the condition therof) that it was taken For the keeping of the Peace: it seemeth to be void, as being then taken *Coram non iudice:* because a Iustice of the peace hath not power to take Recognisances generally, but for matters concerning his Office specially. And therfore M. Marrow addeth further, that if the Recognisance bee, That the recognusor shall not maime, nor beate A. yet it is not good, because it ought to be For the keeping of the peace, and that may be broken otherwise, as by burning of the house of A. or by the like misdemeanour.

Although this Recognisance doe not comprehend any time of appearance, but be generally to keepe the peace: yet it is good in Law (saith M. Marrow) because the chiefe scope is, the keeping of the peace, and the time is referred to the discretion of the Iustice: But, as it was moued (2.H.7.fol.1.) whether the Iustice of Peace ought to bring in the Recognisance to the *Custos Rotulorum*, that the parties might be called vpon it: So, by the Statute (3.H.7. ca.1.) it is plainly enacted that euerie Recognisance (taken for the Peace) shall be certified

at

at the next Sessions of the peace, that the partie may therupon be called, and his default (if any happen) may be Recorded. Wherby it seemeth that euery Recognisance of the Peace, ought now to containe the appearance of the partie at the next Sessions.

And otherwise, there may be some mischief: For if the partie shall not so appeare, he is at liberty (without a new arrest) & not forth coming to be bound ouer, if it be so requred.

And (by M. Marrow) if the Recognisance containe a day of appearance, and yet haue no person named, before whō the party so bounden shal appeare: then may he appeare where he will before the Iustice of the peace which tooke the Recognisance of him.

Againe, if the forme of the Recognisance be in twenty pounds, to bee leuied onely of the goods, or only of the Lands of the Recognisor: it seemeth to bee good enough: for peraduenture the words, Of the goods onely, or Lands only, shal be taken to bee void, seeing that the very acknowledgement of the summe of xx.l. (before a Iudge enabled to take it) both maketh it a debt, & implieth the ordinarie meane of Law to come vnto it.

So, if this Recognisance be taken, To keep the peace against one speciall partie onely, M. Mar. thinketh it good: but aduise well of it, for the words in the Commission of the peace now be, to take suretie, *Erga nos & populum nostrum.*

Many

Many other waies there be, after which the Iustice of Peace may walke in taking of this kind of Recognisance: which, howsoeuer they may fall out sufficient to bind the party vnto ỹ King, yet peraduenture they shall not excuse our Iustice of the Peace from checke & blame: and therefore, for the better eschewing of all errour in himselfe, and bad dealing against the party, I wish him to goe *Regia via*, following the receiued forme, which I take to be thus.

The forme of a Recognisance for the peace.

MEmorandum, quod quarto die Iulij, Anno regni domini nostri Iacobi, Dei gratia, &c. P.R. *de* E. *in comitatu prædict'* Yeoman *in propria persona sua venit coram me I. Leuison milite, vno Iusticiariorũ dict. dom. regis ad pacẽ in dicto comitatu conseruandam assignatorum, & assumpsit pro seipso sub pœna viginti libr. Et* H.I. *de* L. *in comitatu prædicto* Yeoman, *Et* I.F. *de* M. *in eodem comitatu* Husbandman, *tunc & ibidem in propriis personis suis similiter venerunt, & manuceperunt pro prædict'* R.P. *(videlicet) quilibet eorũ seperatim sub pœna* 100. *solid' quodidem* R.P. *personaliter cõparebit corã Iusticiarijs dicti Dom. regis ad pacem ad proximam generalem sessionem pacis in comitatu prædict', ad faciendum & recipiendũ quod ei per curiam tunc & ibidem iniungetur: Et quod ipse interim pacem dicti Domini regis custodiet erga ipsum Dominum regem, & cunctum populum suum, & præcipuè versus* M.N. *de* Ightham *prædict'* Yeoman. *Et quod damnum vel malum aliquod corporale*

porale aut grauamen prefato M.N. (aut alicui de populo dicti Domini Regis quod in lesionem aut perturbationem pacis ipsius Domini Regis cedere valeat) quouismodo non faciet, nec fieri procurabit. Quam quidem summam xx. lib. predict. R.P. & quilibet manucaptorum predictorum predictas seperales summas 100. solid' recognouerũt se debere dicto Domin. regi de terris & tenementis, bonis, & cattallis suis quorumlibet & cuiuslibet eorum, ad opus dicti Domin. Reg. heredum & successorum suorum fieri & leuari, ad quorumcunque manus deuenerint si contigerit ipsum R.P. premissa vel eorum aliquod in aliquo infringere, & inde legitimo modo conuinci. In cuius rei testimoniũ, ego predictus I.L. sigillum meum apposui. Dat. &c.

Or thus, a little different in forme.

Memorandum, quod 4. die &c. A. B. de Ightham &c. Et C.D. de eadem Yeoman, venerũt coram me I.F. &c. & manuceperunt pro I.S. nuper de L. &c. quod ipse personaliter comparebit corãme prefato I.F. vel socijs meis Iusticiarijs pac. domin. reg. ad proximam generalem sessionem &c. Et quod ipse interim geret pacem erga cunctum populum domini regis, & precipuè erga R.B. &c. videlicet quilibet manucaptorum predictorũ sub pœna xx li. Et predictus I.S. assumpsit pro seipso sub pena 40. lib. Quam quidem summam 40. libr. predictus I.S. & quilibet manucaptorũ predictorum dictam summam 20. libr. recognouerunt &c.

And

And this may be well done also, by a single Recognisance in Latine, with a condition added or endorced in English, for the keeping of the peace, and for the day and place of the appearance at the Quarter Sessions.

The surety (or Recognisance) of the Peace, thus commanded & accomplished, order draweth me to disclose, how the Iustice of the Peace is to demeane himselfe with it.

What shall be done with the Recognisance.

If the suretie were taken, by vertue of a *Supplicauit*, then must the Iustice of the Peace (being in this case but a Minister) make returne of the Writ and Certificat of his doing, into the Court from whence the Supplicauit did procéede: for helpe wherein, I will set him downe that, which I haue seene put in practise vpon a Writ of that kind.

The returne of a Supplicauit.

First let him note vpon the back of the Supplicauit thus:

Executio istius breuis patet in quadam schedula eidem breui annexa.

Then may the Scedule be thus.

EGo Thomas Fludde, *miles vnus custodum pacis Domini Regis in comitatu Kancia, certifico in cancellariam dicti Domini Regis, me virtute istius breuis (mihi per* A.B. *in eodem breui nominatum, primò deliberati) personaliter coram me (tali die & loco) venire fecisse* T.R. *in dicto breui nominatum, ac eundem* T. *ad sufficientem securitatē,*

&

& manucaptores pacis inueniendum secundum formam dict. breuis, videlicet (as the Writ shall appoint, which is of diuers formes, as I told you before) *compulisse. In cuius rei testimonium huic præsenti Certificationi meæ sigillum meum apposui: Datum apud D. prædictam, in comitatu prædicto 25. die Februarij, anno regni dicti dom. nostri Iac. Dei gratia &c.*

The returne of a Certiorari

And if a *Certiorari* bee directed out of the Chauncery to the Iustice of the Peace, for removing this Recognisance, because it was not sent vp together with the Certificat, (as there was no necessitie that it should:) then that Writ also may be thus answered.

Vpon the backe of the Writ thus:

VIrtute istius breuis ego Perciuallus Hart *vnus custodū pac' dom. Reg. in com. Kanc. tenorē securitatis pac'* (*vnde infra fit mētio*) *dict. dom. reg. in Cancellar' suam sub sigillo meo distinctè & apertè mitto, prout patet in schedula huic breui consuta.*

The which Schedule may be thus:

Memorandum quod 20. *die Iulij,* (reciting the whole Recognisance to the end thereof.)

Then, *In cuius rei testimonium ego prædictus* P. H. *sigillum meum apposui: Dat. &c.*

If the *Supplicauit* be against diuers, & ỹ party will release his praier of ỹ peace against one of thē, thē ỹ release ought to be certified for him, and the Writ must be serued for the rest: or els

non est inuentus, may be certified for him, and the writ may be serued for the rest.

And this forme may serue also, where a *Certiorari* is brought to a Iustice of the peace, to remoue a Recognisance of the Peace that was taken by him *Ex officio*, without any such Writ of *Supplicauit*: as you may read in the Register fol. 90.

The certifying of the Recognisance and release, to the Sessions.

But if the Recognisance be not thus remoued from the Iustice of the peace, then may hee keepe it till the *Certiorari* come to him for it.

On the other side, if the Recognisance were taken by vertue of his office, then (whether it were by his owne discretion, or at the suit and desire of another) he must send, or bring it in at the next Sessions, to the *Custos Rotulorũ*: so ỹ ỹ Recognisor may there be called, & if he make default, thẽ ỹ same default to be recorded, as is appointed by the said statute 3. H. 7. cap. 1.

And although ỹ party that praied the peace do not then appeare at those Sessions, yet is not the default of the Recognisor discharged thereby 39. H. 6. 26. Bro. Surety 10 and the Iustices may then of discretion bind him ouer: which also they ordinarily do in some places, for two or three Sessions together, by order amongst themselues.

And here againe some difficulties do arise, ỹ may make ỹ Iustice of peace sometimes doubtful, how to hold, certifie, or send in ỹ Recognisance. For sundry meanes there are, by which this

this Recognisance of the Peace may (before any for that therof made) be after a sort discharged and therfore let vs consider of them apart, and withall giue some aduise, what shal be best to doe therein.

Release of the peace by a Iustice of Peace.

The Iustice of peace, that of his own motion compelleth one to giue suretie of the Peace vntill a certaine day, may by like discretion before that day release it, Fitz. fol. 10. And if it should fortune to be made to kéepe the peace generally, without any day limitted, then would it be construed ý it was to continue during the life of the partie bound, & then could no man release it, by Fitzh. & 21. E. 4. 40.

If (at the suit of A.) the Recognisance should be taken, To keepe the peace against A. onely, and none other: then may A. release it, either before the same Iustice, or any other that will certifie the Release, which certificate (being of Record) will discharge it: but to release it by his deed, is nothing worth, Marr.

And if so it be *Versus cunctum populũ, & præcipuè versus* A. yet may A. after that sort release it, as the Law is now practised in our time, cleane against the opinion of the Booke 21. E. 4. 40. For, albeit that it séeme popular, so that all others should haue equall interest with A. in it, yet was it taken specially (say they) for his safety, as the word *Præcipuè* doth argue plaine. And M. Brooke saith truly, that it was so to be vsed at that time also, Peace 17.

Bail

But, since the Recognisance is made to the King, & not to the partie (though for his securitie) and seeing also that by such release, hee that ought to remain bounden shal be at libertie & may do harm, whilest (intending to beat B.) he may collude with A. both to pray and pardõ the Recognisance for the peace: I could for my part like better, to maintaine that old, then to imitate this new opinion.

And now, whether the Recognisance bee at the suit of A. or by the mere motion of the Iustice in the behalfe of A. the King cannot release or pardon it, before that it be forfaited: both for ỹ mischiefe that may come to A. thereby Fineux opinion 11.H.7.12.) and for that the Recognisance being taken according to the common forme, as is before set down, it is not properlie a det to the King, vntill it be forfeited, as appereth 11.H.4.43.& 1.H.7.10. But being once forfeited, then he (and none other) may pardon the forfeiture: for then it is become proper debt vnto him.

Now in these cases, the Recognisance may not be cancelled: lest peraduenture the peace was broken (& consequently the Recognisance, forfeited) before the time of the Release made Fitzh. fol 10.

And therefore, it shal be best, in such cases to send to the Sessions, the Recognisance & the Release together: and that may be done in a few lines vnder the Recognisance it selfe.

First, for the release of the Iustice, thus: *Ego præfatus* Tho. Walsingham Miles, *qui supranominatum* A.B. *ad prædictam securitatem pacis eueniendam ex mea discretione compuli, eandem securitatem pacis (quantum in me est) ex mea discretione* 1. *die Aug. &c. remisi & relaxaui: In cuius rei testimonium, huic præsenti relaxationi meæ sigillum meum apposui. Dat. &c.*

And for the release of the Partie before the same Iustice that tooke it, thus.

Release by the partie.

Memorandum, quod primo Augusti, &c. prefatus C.D. *venit coram me* Samuele Leonarde, *& gratis remisit & relaxauit (quantum in se est) prædictam securitatem pacis per ipsum coram me, versus supra nominatum* A.B. *petit ã. In cuius rei testimonium, Ego præfat'* Samu. Leon. *&c. Dat. &c.*

But if the release be made (as some think it may) before another Iustice which hath not the Recognisance, then this later forme must be framed accordingly.

Certifying of the recognisance, and Supersedeas.

Furthermore if a man be bound before a Iustice of the peace, to kéepe the peace against all the Kings people, and to appeare at the next Quarter Sessions: and doe afterward procure a *Supersedeas*, out of the Chancerie, testifying that he hath found suretie there against all the Kings people whatsoeuer: this will discharge his appearance at the Sessions: because the gran-

granting of this *Supersedeas* is the Act of the King, which is the fountaine of Iustice, and controuleth al other deriued authorities. Fitz. fol. 9.

But if that *Supersedeas* should testifie, that he hath found Suretie in the Chauncerie, onely vntil a certaine day, (which day is after those Sessions) then M. Fitz. thinketh, that his apparance at the Sessions shall not be discharged by the *Supersedeas*. In both these cases also, I would aduise the Iustice of the peace, to send in as wel the Recognisance as the *Supersedeas*, if it come to his hands: for peraduenture the Recognisance was broken before the *Supersedeas* purchased: or, if it were not, yet he shall be excused, and the Recognisor neuer a whit the more endangered thereby.

Certifying of the Recognisance, though it be discharged by death.

Lastly, the death of the king dischargeth the Recognisance of the peace, 1. H. 7. 2. *Cur.* So doth the death of the Recognisor: and so also doth the death of him, at whose suite it was taken, if so be, that it were made to keepe the Peace against him alone.

But, although the Mainpernors or Sureties die, yet the Recognisance liueth: for, if the peace be broken after their deaths, their executors shall be charged with it, 21. Edw. 4. 40. Neither (in the former cases) is the Recognisance discharged by such death, if it were forfeited before.

And therefore, here againe my counsell is,

to send in the Recognisance to the *Custos Rotulorum*: for otherwise, how shall the Iustice of Peace be assured, that he doth not defraud the King of a forfeiture, that was growne vnto him.

Causes of forfeiture, so that the party shall be compelled to giue new Sureties.

Thus haue I both bound the parties to the peace, & conueied the Recognisance frō the Iustice to the *Custos Rotulorum*, ready to be called vpon at the Quarter Sessions: So that I might forthwith proceed to treat of the good abearing: But, because I haue told you (out of M. Mar. & 1. Edw. 4. 40.) that if the Recognisance of the peace be forfeited, and that forfeiture be leuied, so that the Recognisance is vtterly determined, yet (of Discretion) the party is to be compelled to find new Suretie, or else to be sent to the prison: because it appeareth euidently, that hée hath broken the Peace: I take it now fit, to runne swiftly ouer some fewe things that may enforme a Iustice of the peace concerning such forfeitures: to the end, that he may thereupon compell the offendor accordingly.

The Condition of this Recognisance (of what good forme soeuer you make it) standeth vpon two points: the one, for appearance at a time: ỹ other, for keeping the peace in ỹ meanwhile. Of ỹ first of these I haue said somwhat already in this Chapter: concerning the secōd point, this is general, That whatsoeuer Act is a breach of the Peace, the doing thereof doth also

also beget a forfeiture of the Recognisance that is made for keeping of the peace. And what acts shall amount to a breach of the Peace, I will hereafter shew in the next Chapter of this booke, where I shall (to another end) haue meeter place for it. In the meane space, take thus much here.

If a man be bound to keepe ỳ Peace against A. and doe afterward threaten A. to his face, that he wil beate him, he hath forfeited his Recognisance. And an action of Trespas lieth at the common law, against him that shal threatē one to beat him: as appeareth in diuers Booke cases, 33. H. 6. 18. 37. H. 6. 20. &c. I shall suppose it to be *Contra pacem*. But otherwise it is, if A. be not present at that threatning, by good opinion, 18. E. 4. 28. yet, if (in the absence of A.) he doth threaten, that he will beate him, and then do afterward lie in wait to beat him: he hath in that case also broken his Recognisance, 22. E. 4. 35. *Cur.*

Like forfeiture is it, if he that is bound, doe but commaund or procure another to breake the peace vpon any man, or to do any other vnlawful act against the peace, if that it be done indeed 7. H. 4. 34. & Brooke *Tit.* Peace 20. *tempore* H. 8.

And now for closing vp of this part (concerning the Preuention of the breach of the peace) it remaineth, that I intreat of the Suretie of good Abearing: which is of great affinitie

Of the Suretie of the good Abearing: and where it lieth.

with that of the peace, as beeing prouided for preseruation of the peace, as that other is: for in the Commission of the peace, they are both conueied vnder this one tract of speech, (*ad securitatem de pace, vel de bono gestu suo, erganos & populum nostrum inuenendum*) against such as doe threaten hurt to mens bodies, or Fire to their houses: which things are now commonly preuented by Suretie of the Peace only.

And (2.H.7.2.) the Suretie of ỹ good abearing is set forth to rest in this point chiefely, That a man demeane himselfe well, in his port, and companie, doing nothing that may be cause of the breach of the peace, or of putting the people in feare, or trouble: and that it doth not consist in the obseruation of things that concern not the Peace: And that it should differ from Suretie of the Peace in this, That where the Peace is not broken without an Affray, or batterie, or such like, this Suretie *de bono gestu*, may be broke by the number of a mans company, or by his or their weapons, or harnesse.

Herewithall also doe certaine Precedents of the Kings Bench agree, which in Suretie of the good Abearing (taken at the suite of some one person) do mingle the words, *A modo se bene geret erga Dominũ Regẽ, & cunctũ populũ suum, & præcipuè erga* T.B. with those other words that are commonly put in the Recognisance for the Peace, as in the new Booke of Entries, fol. 416. any man may plainly see.

Best

But all this notwithstanding, me thinketh that a man may reasonably affirme, that the Suretie of good abearing, should not be restrained to so narrow bounds.

For first, the Statute (34. E. 3. cap. 1.) enableth the Wardens of the Peace, to take of all them that be not of good fame (where they shal be found) sufficient suretie & mainprise of their good Abearing towards the king & his people. So that, if a man be defamed, he may by vertue hereof be bound to his good behauiour, at the discretion of the Wardens and Iustices of the peace. And I once receiued a speciall writ out of the Chancerie, directed *Custodibus pacis ac vicecomiti: & eorum cuilibet*, and grounded vpō the same statute, for the binding of a man with Sureties, *quod ipse boni gestus & fame de cetero erit, & quod nihil in contrariū statuti prædi quouismodo attēptabit &c.* wherein I proceeded as a Minister only. But the doubt resteth in this, to vnderstand concerning what matters this defamation must be: and that (as I think) may be partly gathered out of the said statute also. For, after it hath first giuen power to the Wardens of the peace, to arrest and chastice offendors (S. against the Peace, Riottors, and Barretors) then it willeth thē to enquire of such as hauing bin robbers beyōd the sea, were come ouer hither, and would not labour as they were wont: & lastly, it authorized them, to take suretie of the good behauiour of such as be defamed

namely (as I thinke) for any of those former offences: for so it standeth well together, that they shall both punish such as haue alreadie so offended, and shall also prouide, that others shall not likewise offend. And euen so doe they of the Chancery vnderstand it, as by their speciall *Supersedeas*, which I afterward receiued from them vpon that writ (whereof I spake euen now) I did well perceiue.

Moreouer, it seemeth to me, that al these statutes, first (1. Mar. Parliam. 1. cap. 3.) which gaue this Surety of good Abearing against such as disturbed a Preacher: then (5. El. c. 21) that prouideth the same against the takers of fish in ponds, or of Déere in Parkes: After that (23. Eli. c. 1.) which granteth it against such as wilfully absent themselues from the Church by the space of 12. months: Likewise (39. Eli. cap. 4.) which tieth to the good behauiour all such as disturbe the execution of that statute, either for the punishmẽt of Rogues, or for the relieue or setting on worke of the poore: And lastly, (3. Iac. 13.) which willeth, that the vnlawfull Hunters and stealers of Déere and Connies, shall finde sureties for their good Abearing: It séemeth (I say) that all these statutes haue this one meaning, that a partie (so bound) may afterward forfeit his Recognisance, if hee eftsoones offend against the said Statutes.

Besides this, you may see (admitted by the opinion

opiniõ of the Court 13. H.7.10.) that if a man in the night season, haunt a house that is suspected for Bawdrie, or vse suspicious company, then may the Cõstable arrest him to find suretie of his good Abearing. For, Bawderie is not meerely a spiritual offence, but mixed, and sounding somewhat against the Peace of the Land, 27. Henr. 8. 14. Fitzherb. & 1. Henr.7. 6.

And therefore, it shall not be amisse at this day (in my slender opinion) to grant suretie of the good abearing against him that is suspected to haue begotten a Bastard childe, to the end that he may be forth cõming when it shall be borne: for otherwise, there wil be no Putatiue father found, when the two Iustices of the Peace, shall after the birth, and by vertue of the Statute (18. Eliz. ca. 3. come to take order for his punishment.

And if this medicine might lawfully be applied to Shomakers, Tailors, Weauers, and other light persons, that (without Testimonial or other good Warrant) do flit out of one shire into another: not only that euill of Bastardie, but many other mischiefes, might bee either preuented, or punished thereby.

But, for some aduise (by the way) in conceiuing rightly this suspition, marke what M. Bracton writeth: *Oritur suspitio ex fama, & ex fama & suspitione oritur grauis præsumptio: Fama verò suspicionẽ inducens, oriri debet apud bonos & graues*

graues idque non semel sed sæpius. Oritur etiam suspitio, ex facto præcedente, cui standū est donec probetur contrarium: nam qui semel est malus semper præsumitur esse malus, in eodē genere mali.

Now, the further that this bond of the good Abearing doth extend, the more regard there ought to be taken in ỹ awarding of it: & therefore although the Iustices of the peace haue power to grāt it, either by their own discretion, or vpon the Complaint of others, euen as they may that of the peace: yet I wish rather, that they doe not command it, but only vpon sufficient cause seene to themselues, or vpon the sute & complaint of others, and the same very honest and credible persons.

And heere, forasmuch as one Iustice of the peace (alone, and out of the Sessions) may (both by the first Clause of the Commission, and also by the opinion of M. Fitzh. & 9. E. 4. 3. grant this suretie of ỹ good Abearing, (although the common manner be, that two such Iustices doe ioyne in that doing, whereof also M. Fitzh. hath very good liking) I will not sticke to set foorth the common formes, as wel of the Precept, as of the Recognisance for the same: wherein if I shall vse the names of two Iustices, you must take that to be done according to the common fashion, and not of any necessitie in Law.

For, as I would more gladly vse the assistance of a fellow Iustice in this behalfe, if I

may

may conueniently haue it: so (if that may not be gotten) I would not greatly feare (when good cause shall require) to vndertake the thing my selfe alone.

The Precept may haue this course.

BRIAN ANNESLEY, and EDMVND STILE, two of the Iustices of the peace of our Soueraigne Lord the Kings Maiestie in the countie of *Kent*, to the Sherife of the said countie, to the Constables of the Hundred of *Blackheath*, and to the Borsholders of the towne of *Eltham*, in the sayd Hundred, and to euery of them, greeting: Forasmuch as *A.B.* of *E.* aforesaid, is not of good fame, nor of honest conuersation (but an euill doer, riotter, barretor, and perturber of the Peace of our sayd Soueraigne Lord) as wee are giuen to vnderstand by the complaint of sundrie credible persons: Therefore, on the behalfe of our said Soueraigne Lord wee commaund you and euery of you, that you cause the said *A.B.* to come before vs, or some others of our fellow Iustices, to find sufficient suretie and mainprise as wel for his good Abearing towards our said Soueraigne Lord, and all his liege people, vntill the next quarter Session of the peace to be holden in the said county, as also for his appearance then there. And if he shall refuse so to do, &c. as in the Precept of the peace with a very little (or no) change.

The precept of the good Abearing.

Any one of these is sufficient cause.

The

The vsuall Recognisance hath this forme.

The Recognisance for the Good Abearing.

MEmorandum, quod quinto die mẽsis Iul. anno regni Iac. &c. venit coram nobis Henrico Palmer milite, et Samuele Leonard armigero, vt antea in Recognitione pacis, vsque ad hoc: Quod idem R. G. personaliter comparebit coram Iusticiarijs dict' dom' reg' ad pacem, &c. ad proximam generalẽ Sessionem &c. Et quod ipse interim se bene geret erga dom' reg. & cunctum populũ suum, & præcipue erga I. B. de C. &c. Et quod ipse nõ inferet, nec inferri procurabit, per se nec per alios, dãnum aliquod seu grauamen præfat' I. B. seu alicui de populo ipsius domini reg. de corporibus suis, per insidias, insultus, seu aliquo alio modo, quod in lesionem seu perturbationem pacis dicti Domini reg. cedere valeat quouismodo: videlicet vterque prædict' H. C. & I. S. sub pœna 100. lib. Et prædictus R. G. sub pœna 200. lib. quas quidem seperales summas 100. lib. vterque prædictorum H. C. & I. S. (vt prædicitur) per se, ac prædictus R. G. dictas 200. lib. recognouerunt se debere dicto dom reg. de terris & tenementis bonis et catallis suis, & quorumlibet, ac cuiuslibet eorum ad opus ipsius dict' Dom. reg. fieri & leuari, si contingat præfatum R. G. in aliquo præmissorum deficere, et inde legitimo modo conuinci, &c.

Or by a simple Recognisance with this Cõdition endorced, or vnderwritten.

Con-

Conditio recognitionis prædictæ talis est, Quod si prædictus R. G. imposterum se bene geret, & pacem Dom. Regis conseruabit, erga dictum Dominum regem, & cunctum populum suum, & nullum dampnum corporale, &c. Ex tunc recognitio predicta pro nullo teneatur, alioquin in suo robore permaneat.

Release of the good Abearing.

I haue knowne it doubted, whether the suretie of the good Abearing (commaund vpon complaint) may be released by any speciall person, or no: because it seemeth more popular then the Suretie of the Peace. But if it may, then may the forme of such a Release be easily made, by that which is before concerning the Peace, vsing the words *Securitatem de se bene gerendo*, in steed of the words *Securitatem pacis*.

And the like imitation may bee vsed also, for a *Supersedeas* of the good Abearing, if at the least that be grantable by the Iustices of the Peace.

I might here without breach of order, prosecute the preseruation of the Peace, by the preuenting of such as be riotously assembled, & by handling the Statute of Northampton, which seemeth (by plain speech) to be prouided for preuention of the breach of the Peace also: but because the first shal haue his proper place, and the later is commonly put in vre at this day after the Peace broken by forcible entrie,

I will spare to speake of any of them, till I come to treat of those matters by themselues.

What any one Iustice of Peace out of the Sessions may doe concerning the staying or punishing of the *Breach of the Peace* without a *Multitude*, against the person.

Cap. III.

Breach of the Peace without a multitude.

THe preuention of the breach of the Peace hath appeared, as well in the Suretie of the Peace, as of the good Abearing: and therefore mine owne order requireth, that I now declare what one Iustice of the peace may doe (out of the Sessions) for punishment of such as doe breake the Peace.

For, our Law is no lesse carefull this way to conserue the Peace, both by staying them that doe any way aduenture towardes the breach thereof, and by punishing them that doe actually enter into the verie violation of the same, then it was prouident to see it preserued before it came to any nére shew of disturbance, or greater euill.

But because the breach of the Peace (as the law is take̅ at this day) whether it be by word, or

or other act (so that also whether it be to ỹ person, or his goods, or lands) may be aswell cõmitted by one only, or by two vpõ a side (both which we hold to be done without a multitude though two in precise speech doe make a number (as by three or moe in one company (which the Law properly calleth a Multitude) it shall be good to intreat by it self, first of that breach of the peace which may bee cõmitted without a multitude, and then to prosecute the other, if before all wee giue the Iustice of peace to vnderstand, that by what way soeuer he may prevent (or punish) the breach of the Peace in one person, the same meanes hee may also vse against any multitude offending therein.

The breach of the Peace that may be practised against the person, climeth to the destruction of the person by sundry steps and degrées: as by Threats, Affray (or Assault,) violent and malicious striking, beating, wounding, maiming, and killing. The matter of menacing and threatning is already handled in the last Chapter.

The words Affray and Assault, be indifferently vsed of most men, and that also in some of our Booke cases: but yet (in my opinion) there wanteth not a iust difference betweene them. Affray and Assault.

For, Affray, is deriued of the French *Effraier* which signifieth to terrifie, or bring Feare, which the Law vnderstandeth to be a commõ wrong,

wrong, and therefore it is inquirable and punishable in the turne of the Sherife, and in a Leete, 4. H. 6. 10. and 8. Ed. 4. 5. Otherwise it is of an assault, as it seemeth by those verie bookes.

Yet may an Affray bee without word or blow giuen: as if a man shall shew himselfe furnished with armor or weapõ, which is not vsually worne and borne, it will strike a feare vnto others that be not armed as hee is: and therefore both the Statute of Northampton (2. E. 3. c. 3.) made against the wearing of Armour and weapon) & the writ thereupon grounded, do speake of it by the words, *effray del pais*, and *in terrorem populi*.

But an Assault, as it is fetched from another fountain, namly frõ the Latin *Assultus*, which denoteth a leaping (or flying) vpon a man: so can it not be performed, without the offer of some hurtfull blow, or at the least, of some feareful speech. And therfore to rebuke a Collector with foule words, so that hee departed (for feare) without doing his office, was taken for an Assault, 27. li. Ass. pl. 11. And to strike at a man although he were neither hurt (or hit with ỹ blow) was adiudged an Assault, 22. lib. Ass. pl. 60. For this Assault doth not alwaies necessarily imply a hitting: and therefore, in Trespas of Assault and Batterie, a man may be found guilty of the Assault, and yet be excused of the Batterie, 40. E. 3. 40. & 45. E. 3. 24.

Menacing

Menacing then Affraies, Assaults, iniurious and violent handlings, and misintreatings of the person, batteries, malicious strikings, &c. be breaches of the peace, & doe draw after them the forfeiture of a Recognisance, knowledged for the keeping of the peace.

what acts be breaches of the peace, and what not.

And therefore (for example) if a man do imprison another without Warrant: or do thrust him into a water (or riuer) whereby hee is in danger of drowning, or do rauish a woman against her wil: or doe commit Manslaughter, or Burglarie, or Robberie, vpon the person of another: or do any Treason against the person of the King (who as he is the head of his people, so are they also wounded in his heart) hee hath broken the peace: Marrow.

But concerning the menacing, assault, or batterie of the peace, this is to be noted by the way, that it is not in all cases a violation and breach of ỹ peace: for some are allowed to haue priuatly a naturall, and some a ciuile power (or authoritie) ouer other: so that they may (in reasonable maner only) correct and chastise them for their offences, without imputatiõ of any such breach. After one sort, the parent is suffered (with moderation) to threaten and chastise the child within age. By reason of the other sort of power, the master, is not punishable (if not outragiously) he chastise his seruant ỹ scholmaster his schollers, or a gaoler (or his seruant by his comamadement) his vnruly

prisoners, or the Lord his villaine. But these things nevertheless must be done in convenient place, and therefore not in the presence of the King, as it is thought, 27. lib. Ass. pl. 40.

And this power of the Master and Schoolmaster, over the Servant and Scholler is affirmed by M. Marrow, and confirmed by some opinion in the booke 21 E. 4. 6. & 53. Wherunto I may also add the mind of those that made the statute (33. H. 8. ca. 12.) concerning malicious striking in the Kings house: for they have therin specially exempt ȳ Master that striketh his Servant, with his hand, fist, small staffe, or sticke in the way of correction for his offence.

Every man also may take his kinsman that is mad, and may put him in a house, and bind and beate him with rods, for the reclaiming of him, without the breach of the peace, 22. lib. Ass. pl. 56.

A Constable, or other Officer, or any other being of their company, that shall be driven to strike any person, for the better executing of their Office or charge (as in many cases they may lawfully doe) breaketh not the peace, nor shall be in peril to forfait any Recognisance for the peace by reason of any such assault or battery: as may be wel inferred vpon these cases 17. E. 4. 5. 2. E. 4. 6. & 8. 4. H. 7. 1. & 14. H. 7. &c. For such Acts be iustifiable. And see for this purpose also M. Stamf. fol. 13. 14. 15.

Besides

Besides this, if a man be enforced to repulse violence (done vnto his owne person, or to the person of his wife, father, mother, child, master, or seruant, or to his goods being in his possession) either by threatning, or striking againe, his so doing is also iustifiable, as may be seene in Marrow, & 33.H.6.18.19.H.6.31. 9.E.4.48.& 35.H.6.50. But a Farmer, or Tenant, cannot iustifie such an Act in defence of his Landlord: nor a commoner in defence of the Maior (or the Bailifes) of a citie, or towne corporate, where he dwelleth.

If one man also kill, or hurt another at fence play, or at the Tilt, Tornament, or Barriers in presence of the King, and by his commandement, or licence) it is no breach of the peace: 1.H.7.23.Fineux: But M.Br. saith (Corone 28.) that the Iudges were of another opinion, in the time of K. H. the 8. because such a licence, or commaundement, is against the law.

More allowably therefore writeth Marrow, that it breaketh not the peace, to kill a man, in a Wager of Battaile for triall of a cause, according to the ancient law of our country.

Thus farre of those Breaches, that may bring daunger to a Recognisance of the Peace: for some others there be, which are (in a degree) against ỳ Peace, so that an Enditement *Contra pacem*, may be found vpon them, and yet no forfeiture of a Recognisance, shall ensue of them:

Breaches of the peace that make no breach of bond for the peace.

them. For the Act, that shall breede such a forfeiture, must bee done vnto the person. Marrow.

Therefore, if a man (so bound) do take a mans goods wrongfully, (so that it be not from his person) or doe rauish or take another of his Ward: or doe a trespasse in another mans Corne, or grasse: or do Disseise another man of lands: or doe enter into lands, where he ought to bring his action: it will breed no forfeiture of this bond.

Let vs now therefore come to the pacifying and punishing of the breach of the Peace, by on the person, by one Iustice of the Peace out of the Sessions.

A Iustice of the Peace, is vndoubtedly (to this purpose) endowed with no lesse power, thē euery priuate man, or any Constable hath as it is plaine by 14. H. 7. 8. & 9. E. 4. 3. And therfore, it may not be thought *Heterogenium*, or besides my purpose, if I shall shew what both a priuate man and Constable may doe in this case, yea rather I chose to vtter this matter vnder their names, to the end that I may with that one labor bewray the duties, both of them and of the Iustice of the Peace himself in this behalfe.

The dutie of a stander by at a Affray.

The law loketh, that euery priuate person, whō it shal happen to be present at an Affray, Assault, or Barterie, (for now I will with other men confound those names) should doe his part

art to depart them that fight together: and it
oth (to that end) enable him also with some
ortion of authority.

For, if two bee fighting, euery stander by, To part them
ay lawfully, and shall doe well to put them
sunder: and if he take hurt thereby, he shal
ue his remedie by Action against him that
d the hurt.

But yet he (being but a priuate man) may
o no hurt, if they resist him: for they also shal
en haue Action for it against him: wherein
is case differeth (as you shall see none) from
e case of an Officer.

And if an Affray be in the high streete, & one To stay them.
ommeth towards it with harnesse or weа-
ons to ioyne with the one or other partie, e-
ery man that seeth it, may stay him till the
ffray be ended.

Any man also may stay the Affraiors, vntill
e storme of their heat bee calmed: and then
ay hee deliuer them ouer to the Constable
o imprison them, till they finde suretie for the
eace: but he himselfe may not commit them
o prison, vnlesse the one of them be in perill of
eath by some hurt: for then may any man ca-
ie the other to the gaole till it be knowen,
whether he so hurt, will liue or die, as appea-
eth by the Statute 3.H.7.c.1.

And if (in that case) he which did the harme
o flie into another mans house, yet may any
an (that followeth him vpon Hue and Crie

made) breake open the house, and enter, and take him, 7. E. 3. Fitz. Bar. 291.

Now, that it is not only lawfull, but commanded also, that the standers by doe shew their best endeauour in these cases, it appeareth (Corone Fitzh. 395.) that one which stood by, & looked on, whilest a man was slaine, was emprisoned till he made fine, because hee did not bestir him to attach the murderer.

But, as the keeping of the peace is more specially recommended to the charge of Iustices of peace Constables, petie-Constables, Borsholders, Tithingmen, and such like Officers: so bee they also (to that end) armed with a larger measure of authoritie.

The Officers dutie in any Affray.

And therefore, if a Constable, or such other Officer, doe see a man endeauouring to make an Affray, he may commaund him to auoid, vpon paine of imprisonment: & if the Affray be great or dangerous, he may make proclamation, and may commaund the parties to prison for a small time, till their heat be passed ouer, and then he must deliuer them without any fine taking.

But if two doe vse only hote wordes one against the other, the Officer may lay no hands vpon them, vnlesse they do also draw weapon, or doe otherwise offer to strike: If they once fight together, then may the officer depart them, and if he hap to be hurt in that doing, hee shall haue an Action of Trespasse for it: but

ut if any of them be hurt by him in the resi-
ance, no Action lieth for them: For the
fficer ought to doe his best to depart them:
somuch as if it be presented at the Sessions
f the peace, that he was present at an Affray,
nd did not vse his endeuour to put them in
nder that fought together, he shall be deep-
y fined for it: Otherwise it is, if he were not
esent, but were only told of the Affray: Mar.
f any of the parties be in danger, by reason
f a hurt receiued in the Affray, then ought
he officer to arrest and carrie the other to the
aole, vntill he shall finde surety to appeare
t the gaole deliuery Fitzh. 72. 38. E. 3. 6. &
2. lib. Ass. pl. 56.

nd if two men bee fighting in a house (the
oores shut) then may the officer breake open
he doores to see the Peace kept, though neither
f them haue taken hurt.

And yet when the Cõstable hath taken an
ffraior, he may not imprison him in his house
ut in the Stocks: and that, not aboue such a
easonable time as he may prouide to conuey
im to the gaole till hee finde surety for the
eace, 3. H. 4. 9. 22. E. 4. 35.

And herein he differeth frõ a gaoler, or ỹ she-
ife (who hath ỹ charge of ỹ gaole) for he may
ake a gaole of his house: & so cãnot a cõstable
r Iustice of ỹ peace do. For by stat. (5. H. 4. c.
0.) ỹ Iustice of ỹ peace must sẽd his prisoners
o ỹ cõmon gaole: & you may read (Bric. f. 72) ỹ

the Sherife (in his turne) vsed to enquire of those which made Prisons of their private houses.

If one doe make an Affray vpon a Iustice of the Peace, Constable, or such other Officer, he may not onely defend himselfe, but may also apprehend ỹ offender & send him to the Goale till he will find suretie of the Peace, 5.H.7.6. And the Iustice, or Constable may (if need be) command assistance of the Kings people, for the pacifying of an Affray, 3.H.7.10.

If he that maketh an Affray doe flie into a house when the Iustice of peace (or Constable) commeth to arrest him, they may also in fresh suit) breake open the dores & take him, Mar. or if he flie thence, they may make fresh suit & arrest him, though it be in another County, by ỹ opiniõ of some men, 13.E.4 9. And it should seeme (by the reason of that Booke) that in this case also, they may breake open the dores to apprehend him: because the King hath an interest in the matter, and then a mans house shall be no refuge for him, as it should bee in Debt or trespasse where the interest is but only to some particular subiect.

Now, if the Constable doe arrest one, that hath hurt another, and do voluntarily suffer him to escape, and then he that was hurt dieth thereof within the yeere and day, the Constable shall make a great fine, and that to the value of his goods, in the opinion of some, 11.H.

4.12.

.12. & Stamford 34. But yet the offence shal not haue such Relation to ỹ time of the stroke, as to make the escape to become Felonie ther-by; *Commentar' Plowden.* 263.

What any one Iustice of Peace out of the Sessions may, doe concerning the Breach of the Peace, without, or with a multitude, by forcible entrie into Lands or Tenements, &c.

CAP. XIIII.

IT seemeth, that (before the troublesome Raigne of King Richard the second) the Common law permitted any persõ (which had good right (or title) to enter into any land) to win the possession thereof by force, if otherwise he could not haue obtained it.

For, a man may see (in Britton fol. 115.) that a certaine respite of time was giuẽ to the disseisee (according to his distance, & absence) in which it was lawfull for him to gather force, armes, and his friends, and to throw the disseisor out of his wrongfull possession.

And at this day, if (in a common Action, or enditement of trespasse for entring into land) the defendant will make title thereunto, the matter

matter of the force alleaged against him will rest altogether vpon the validitie of his Title, as appeareth, 7. H. 6. 13. and 40.

But, after the rebellious tumult, and insurrectiõ of the villaines, and other the base commons which happened the fourth yeere of the Raigne of R. 2. the Parliament (5. R. 2. ca. 7.) thinking it necessarie to prouide against all such occasions of further sedition, vproare, & breach of peace, did ordaine among other things, Thus: From henceforth none make any entrie into any lands and tenements, but in case where entrie is giuen by the Law, and in such case not with strong hand, nor with multitude of people, but onely in peceable and easie manner: vpon paine (if he bee duely conuict thereof) of imprisonment, and to bee ransomed at the Kings will.

But because that statute prouided no speedy remedy in this point: nor extended to holding with force: nor left any special power therein to the Iustice of peace in the country: whereas the experience of that vnquiet time required a more ready hand to the suppressing of such disorder: and Iustices of the peace were by 13. Rich. 2. Stat. 1. cap. 7.) then newly chosen in all the Counties of England, of the most sufficient Knights, Esquires, and men of Law of the same, and sworne to put in execution all the ordinances touching their offices. Therefore 15. R. 2. cap. 2. it was further enacted. That when such

forcible

forcible entrie should be made into lands or tenements, or into benefices, or offices of the Church, and complaint thereof come to any Iustice of the Peace, he should take sufficient power of the County, & go to the place where such force was made: and if he found any that held such place forcibly after such entrie made, the same should be taken and put in the next goale, there to abide, conuicted by the record of the same Iustice, til they had made fine and ransome to the King: And that aswell the Sherife, as allothers of the Countie should attend vpon the said Iustices to goe and strenghten the same Iustices, to arrest such offendors, vpon paine of imprisonment, and to make fine to the King.

But yet againe, forasmuch as this last Statute did not extend to those that entred peaceably, & then held with Force: nor yet reached to the offendors, if they were remoued before the comming of the Iustices: nor made restitution of the possession so forciby gottē: nor gaue any paine against ỳ Sherife that did not obay the precepts of the Iustices in this behalfe: it was not only ordained by a third Act (made 8. H. 6. cap. 9.) That the said former statute should bee holden and duely executed. But it was adioyned also thereunto, If any from hencefoorth make such forcible entrie into lands, tenements, or other possessions: or them hold forcibly, after complaint thereof made within the same Countie to any of the Iustices of the Peace

Peace there by the parties grieued, the Iuſtices (or Iuſtice) ſo warned ſhall in conuenient time cauſe the laſt ſaid ſtatute duely to be executed at the coſts of the ſaid partie ſo grieued.

And whether the perſons (making ſuch entries) bee preſent or auoided before the Iuſtices comming: the ſame Iuſtices (or Iuſtice) in ſome good towne next to the ſaid tenements, or in ſome other conuenient place at his diſcretion, ſhal haue power to enquire by the people of the ſame Countie, as well of them which made ſuch forcible entries into lands, or tenements, as of them which held the ſame with force: And if it be found before any of them, that any doth contrary to this ſtatute, then the ſaid Iuſtices (or Iuſtice ſhall doe the ſaid lands or tenements to be reſeiſed, and ſhall put the partie (ſo put out) in full poſſeſſion of the ſame. And when the ſaid Iuſtices (or Iuſtice) make ſuch inquiry, they ſhal direct their Precepts to the Sherife, commaunding him on the Kings behalfe, to cauſe to come before them and euery of them, ſufficient and indifferent perſons, dwelling next about the ſame lands or tenements, wherof euery man ſhall haue lands or tenements of the cleere yerely value of fortie ſhillings at the leaſt: and the Sherife ſhal returne twentie ſhillings in iſſues vpon euery one of them at the firſt Precept returnable, and at the ſecond forty ſhillings, and at the third fiue pounds, and at euery day after, the double. And euery ſherife of County, and bailife of franchiſe,

that

that ſhall not duely make execution of the ſaid Precepts, ſhal forfeit to the King twenty poũds for euery default, and ſhall moreouer make fine and ranſome to the King. And aſwell the Iuſtices (or Iuſtice) aforeſaid, as the Iuſtices of Aſſiſes, may heare and determine ſuch defaults of Sheriſes or Bailifes, as well by bill at the ſuite of the partie grieued, for himſelfe, as for the King only by way of Enditement: and vpon ſuch due attainder, he which ſueth for himſelfe & for the king, ſhall haue the one moytie of the ſayde 20. pounds, together with his coſts and expences: and ſuch Proces ſhall be againſt ſuch ſo indited, or ſued, as lieth againſt any perſon indited, or ſued, by writ of Treſpaſſe with force and armes againſt the peace. And the Maiors, Iuſtices, or Iuſtice of the Peace, Sherifes, and Bailifes, that are in Cities, Townes or Boroughs (hauing franchiſe) ſhall haue like power there in the articles aforeſaid, as the Iuſtices of Peace, and Sherifes in the Counties haue.

But they which keepe by force their poſſeſſions in any lands or tenements, whereof they or their auncеſtors, or they whoſe eſtate they haue therein haue continued their poſſeſſion in the ſame by three yeeres or more, ſhall not be endamaged by force of this ſtatute.

This laſt Statute, I haue exemplified the more at large, for that it deliuereth a full direction in this buſineſſe. Beſides the which, ſeeing that I haue met with ſome other notes

that

that doe tend to the explanation of sundrie points thereof, and seeme not vnmeete to be considered, I will not let to bestow them here also.

This Statute (8. H. 6.) enableth any one Iustice of the Peace, to giue remedie in this hurt of Forcible entrie and holding: and is made aswell against such as enter with Force & hold then peaceable; and against those that enter in peaceable sort, & then maintaine their possession forcibly: as also against as many, as doe both Enter and Hold in forcible maner. Fitz. Na Br. 148. & 3. E. 4. 19.

And therefore it is expedient for the Iustice of the Peace to know, first, what is a Forcible entrie, and what is a Forcible holding, within the meaning of these Statutes: and then, how he shall demeane & carrie himselfe, in the execution of his office against those that shall offend herein.

Two sorts of Force.

Euen as the Ciuilians doe handle two sorts of Force: of which they call the one *vim*, and *vim simplicem, priuatam, siue quotidianam*; and the other *vim armatam, atrocem, & publicam*, because the first is void of any fearefull outrage, and the latter seemeth to kindle ỹ coales of seditiõ it self: so likewise, our law taketh knowledge of two manners of Force: whereof the one is rather intellectual then actual, and may therefore be termed, a Force in the consideration of law, which accounteth all that to be *vis*, which

which is contrarie to *Ius*. But the other is apparant by the act it selfe, which alwais carrieth some fearefull shew, and matter of terror (or trouble) with it.

Howbeit in this we differ from them, that whereas our law confoundeth the words *vi & armis*, when it meaneth but onely the former force, the Ciuile Law doth seuer them, applying *vi* to the former onely, and *armis* to this latter

And therefore, if I do but hawke, or walke, (for my pastime or recreation) ouer another mans ground, he may haue his action of Trespasse against me, *Quare vi & armis &c.* For though I meant no harme to him, or his, yet (in iudgement of Law) I might not (in such case) passe vpon his ground without licence. but this is not that force, that needeth the help which is prouided by these statutes: for 34. H. 6. 26. a writ vpon that stat. 5. R. 2. c. 7. was disalowed, because it is cõtained *vi & armis*, only.

Againe, if a man do enter vpon the freehold of another, and do there fish the waters with an angle, or cut down the grasse with a sith, or fell the trees with an axe, or take away any of his goods in his absence: this is accounted a disseisin with Force and armes, Lib. Ass. 11. pl. 26. 11. H. 4. 16. Ass. Fit. 301. & 21. E. 3. 34. And yet I doubt also, whether any of these be of thẽselues Forcible entries, of that nature which these Statutes doe take in hand to punish.

For,

For, albeit they haue in thē more actual Force then those other trespasses wherof I spake last before: yet, whilest the doer of them neither executeth apparent violence against any person, nor is furnished with weapon, nor armed with company, that may offer any dreadfull disturbance, I see not how these Statutes (which haue for their only mark, strong hand, and multitude of people) can hurt, or so much as hit him.

So that, if a man were indited vpon this statute (8.H.6.) for that he disseised another, *vi & armis* (viz. *gladijs, &c.*) without saying *manu forti &c.* or *cum multitudine, &c.* the bill (as I thinke) would be sufficient: vnlesse it were holpen by concluding afterward, *contra formā statuti prædicti,* or by some other matter that implied so much. Therefore,

Paulò maiora canamus.

Forcible entrie.

If one, or moe persons, shal come weaponed (especiall with weapons not vsually borne, as bowes, billes, guns, or such like) to a house or land, & shal violently enter therinto, this is a Forcible entrie within the meaning of these Statutes: much more, if he or they shal there offer violence, or feare of harme, to the person of any that is in possession therof: and most of all, if he or they shall forcibly and furiously expell, and driue another out of such his possession.

In the which consideration, he that entreth

in

in a peaceable shew (as the dore being either open, or but closed with a latch only) and yet when he is come in, vseth violẽce, and throweth out such as hee findeth in the place, hee (I say) shall not be excused: because his entrie is not consummate by the onely putting of his foot ouer the threshold, but by the action and demeanor that he offereth when he is come into the house.

And, albeit that of three (or foure) which come in one company) to make such a forcible entrie, only one of them doth vse force, and violence, yet are all the rest also guilty of this force with him, (Fitz. Impris. 22.) Neither is it denied (10. H. 7. 12.) to bee a forcible entrie, when ỹ master entreth, being attended with a greater number of seruants, then vsually doe wait vpon him. For whether a man do actually vse force in his entry, or do come so readily appointed, & arraied for it, that other men may reasonably be affraid that he mindeth to make his way by force rather then he wil faile of his desired purpose, it seemeth to weigh to a violent, (or Forcible) entrie.

And I thinke there be no great doubt, but that one person alone, may commit a forcible entrie, if so be that he do performe it with offensiue weapon, or doe vse turbulent behauiour to the affray of another.

But what weapons be offensiue, in these and the like cases, a man shal ỹ better discern

if he will take with him these few lines drawn out of M. Bractons booke, fol 162. *Est etiam vis armata, non solũ si quis venerit cum telis, verũ etiã omnes illos dicimus armatos, qui habent quocũnoce re possunt:* Telorum autem appellatione, omnia in quibus singuli homines nocere possunt accipiuntur. *Sed si quis venerit sine armis & in ipsa cõcertatione ligna sumpserit, fustes, aut lapides, vis dicatur armata: Si quis autem venerit tam armis, armis tamen ad deijciendum non vsus fuerit, & deiecerit, vis armata dicetur esse facta:* Sufficit enim terror Armorum, vt videatur armis deiecisse.

Furthermore, if a man that hath a rent issuing out of the Land, shall distraine for ỹ same with force, this will counteruaile an Entrie with force: and much more if he shall by such forcible distresse leuie a rent, that is not due to him, but to another man, 20. H. 6. 11. & lib. Ass. 43. pl. 6. For an action vpon the Statute of Forcible entrie lieth for a rent, 22. H. 6. 23.

But now, if diuers persons shal make a forcible entrie to the vse of another man (which is not then present with them, but afterward agreeth therunto) this shal not charge him for the Force, howsoeuer he may becõe a disseisor by it: for (as it is said, 2. H. 7. 16.) a forcible entrie cannot bee adiudged against a man, without an actuall entrie bee also made by him.

Forcible holding.

Thus farre of Forcible entrie, which may somwhat lead a man towards the knowledge of

f detaining, (or holding) with Force also: but
et, because the matter wil best appeare by
artitularitie, I will ensue that also.

If a Iustice of the Peace come to the house
hat is supposed to bee holden with Force) &
here findeth but one person, which obstinate-
y keepeth the doore shut against him, and will
ot suffer him to enter: this is a Forcible hol-
ing, Marrow. So is it, if when ỹ Iustice en-
reth the house, he shal find persons harnessed,
or in other warlike sort appointed, or hauing
uch furniture lyũg ready in the house to bee
sed by them, Marrow. But if a man shall
eaceably enter into a house, wherein he find-
th armor, or weapon for the warre, then (as
I thinke) the onely suffering of it to remaine
here (without the vse thereof) will not charge
inas a Forcible holder.

Againe, if a man that is entred into a house,
will bestow men with force and armes, in
ome other house or place (not farre distant) to
he intent that they shall bee readie to assault
uch as shal make any attempt of entrie vpon
im: this is a detaining with force, Marrow.
nd (for the same reason) it seemeth to be a for-
ible holding, if a disseisor of a house, or land,
hall forestall the way of the disseisee (w̃ force
nd armes) so that he dare not enter, or ap-
roach for feare of death. Seeing that in either
ase, the lawful mean of cõming to his posses-
ion, is quite taken from him: Like as if a mã

haue a rent or common in land, and he is so forcibly resisted by the tenant of the land, that he dare neither distraine for the one, nor vse the benefit of the other: this is a holding with force punishable by this statute, Marr.&Lib. Ass. 29. pl. 49. Besides this, some haue thought, that if he which hath gained a possession, shal threaten to kill him (that hath right) if hee come to enter, this shall amount to a Forcible holding.

But, al that is here said touching this point, must be taken to bee said of a forcible detayning, of the possession it selfe, and not of the Person. For (as Marr. writeth) if I shall take a man (being out of his house) and then put into the house a seruant of mine owne in peaceable maner, and hold away the other by imprisonment of his person in some other place: this is no forcible detaining within the purpose of these lawes, but a false imprisoning punishable by action at large.

The duetie of the Iustice.

We come now to the office of the Iustice of Peace, in these forcible entries, and holdings: and that standeth first, either in recording the force by his owne view, or in seeking to vnderstand thereof, by the oathes, and enquirie of other men.

Complaint is not necessarie.

Touching the recording of the force, although both this statute 8.H.6. and that other (15.R.2.) haue mention, That the Iustice shall (vpon complaint, made vnto him by the parties grieued)

grieued) go to the place &c. yet that doth not enforce any necessity of such a cõplaint: for it is holden (7.E.4.18.) that a Iustice may Record a forcible entrie and holding, or may enquire of it, and make restitution also (vpon any information, or knowledge thereof whatsoeuer) though no Complaint at al be brought vnto him by any partie grieued thereby. And as the Statute saith, that this ought to bée done at the Costs of the partie grieued: So Marow thinketh, that vnlesse those costs be tendred before hand, the Iustice needeth not to stirre about it. Costs

But, howsoeuer he (beeing then a practiser in the law) might thinke it good to stand vpon his fee: yet I aduise our Iustice of the Peace to goe forward, as hauing more regard of his credite, oath, and dutie.

Neither ought he to stagger, or stay at all, about the right or wrong, of his Title that entreth, or holdeth forcibly. For considering ỹ the said statute (5.R.2.) doth without exception prohibite all entrie with force, howsoeuer the entrie be otherwise lawfull: & seeing also, that the other Statute (8.H.6.) permitteth no forcible holding, but onely where three yeres possession haue gone before: And weighing moreouer, that both they and this other (15. R.2.) doe together labour to represse force and violence, and haue also made the Iustice of the Peace their minister therein: I see no cause why

The right is not commonly disputable.

why the Iustice of Peace (who perhaps shall want sufficient learning in the law to discern of the right, or title, and yet may be both a fit person to remoue the force, and able enough to restore the possession) should bee tied to the discussion of the right or title, of either of the parties.

And this I gather vpon the opinion of all the Court (9.H.6.19.) which was the very next yeare after the making of the last of these statutes: where it is said, that the Action vpon the Statute 8.H.6. is for the right onely, and must alway say, *Illicitè ingressus est*, or *non ingressus non datur per legem*: but the Enditement is for the force in respect of the king, to whom the partie shall make Fine, although his right be neuer so good, and sound.

And thereupon, the booke 22.H.6.18.admitteth this case: that if A. shall disseise B. of his land, & B. doe enter againe, and put out A. with force: A. shal be restored to his possession by the helpe of the Iustices of the Peace, although his first entrie were vtterly wrongfull: and, (notwithstanding the same Restitution so made) yet B. may well haue an Assize against A. or may enter peaceably vpon him againe.

And therefore the Iustice of the Peace may bouldly proceed in this businesse, taking with him sufficient power of the cõtrey by his discretion (and therein the Sherife also, if need

to require) as well for the arresting of such as he shall find to enter, or hold, forcibly against these Lawes, as also for the remouing of the force which they bring, and for the conueying of them to the next Gaole, as persons thereof conuicted by his owne eie, testimonie, and record.

The forme of which Record, may stand vpõ two parts: the one to remaine amongst ỹ Records of the Peace, or to be certified into the Kings Bench: and the other, to be sent to the Gaoler, & to lye with him for his better warrant and discharge. Recording of the force.

The Record of the Force.

Kanc.

MEmorandũ quod octauo die mensis Ianuarij, anno regni Domini nostri Iacobi, &c. Questus est mihi Samsono Lennard, *vni Iusticiariorum dicti Dom. Regis ad pacem in dicto comitatu conseruandã assignatorum, quid A. B. de* Wrotham *in dict' comit.* Yeoman, *quod C. D. de* Wrotham *prædicta, & nonnulli alij pacis dicti Dom. regis perturbatores ignoti, in domum mansionalem ipsius A. B. in* Wrotham *prædict' manu forti ingressi sunt, & ipsum A. B. inde disseisiuerunt, ac eandẽ manu forti & armata potentia adhuc tenent: ac proinde petijt à me sibi in hac parte remedium apponi. Qua quidẽ querimonia & petitione audita, ego præfatus S. L. immediatè an dictã domũ mãsionalẽ personaliter accessi, ac in eadem domo adtunc inuenj*

fatum C.D. & quosdam E.F. & G.H. &c. domum illam vi & armis, manu forti, & armata potentia, viz. arcubus & sagittis, gladijs pugionib', galeis & Loricis tenentes contra formam Statuti in Parliamento Dom. Rich. *nuper Regis Angliæ secundi, anno reg. sui decimo quinto tento, prouisi: ac contra formam diuersorum aliorum Statutorum. Ac propterea ego præfat' S.L. prædictos C.D. E.F. & G.H. ad tunc & ibidem arrestaui, proximæque gaolæ dicti Domini Reg. apud* Maidstone *in dicto comitatu duci feci, vt de dicta manu forti tentione per visum & recordum meum conuictos, ibidem moraturos quousque fines dicto Domino Reg. pro transgressionibus sui: prædictis fecerint. Dat' apud* Wortham *prædict' sub sigillo meo die & anno supradictis.*

Per me præfatum Sa. Leon.

And the forme of the Mittimus to the Gaoler, may be thus.

GEorge Chowne, one of the Iustices of the Peace of our soueraigne Lord the King Maiestie within his said Countie of *Kent*, to the keeper of his Maiesties gaole at *Maidstone* in the said county, & to his deputie & deputies there, and to euery of them greeting: Whereas vpon cõplaint made vnto me this present day by A. B, of *Wrotham*, in the said County *Yeoman*, I went immediatly to the dwelling house of the said A.B. in *Wrotham* aforesaid, and there found

C.D.

C.D. E.F. and G.H. of *Wrotham* aforesaid Labourers, forcibly, and with strong hand and armed power, holding the said house, against the peace of our said Soueraigne Lord, and against the forme of the Statute of Parliament thereof made in the 15. yere of the raigne of our late K. *Richard* the second. Therefore I send you (by the bringers hereof) the bodies of the said C.D E.F. & G.H. conuicted of the said forcible holding, by mine owne view, testimonie, and record: commanding you in his Maiesties name, to receiue them into your said Gaole, and there safely to keep them, vntill such time as they shal make their fines to our said Soueraigne Lord for the said Trespasses, and shall be thence deliuered by the order of the Law of the Land. Hereof faile you not, vpon the perill that may follow thereof. Yeouen at *Wrotham* aforesaid vnder my seale, the day and yeere abouesaid.

By me the said G.C.

Enquirie of the force and restitution of possession.

But now, forasmuch as this Law hath prouided restitution of the partie that shal be put out of possession by such forcible entrie: & for that no restitution can be made by the Iustice of peace, but only vpon the finding of the same putting out by the oathes of ỹ Enquiros: let vs also consider what is the duty of the Iustice in these two points, of Enquirie and Restitution.

Con-

Concerning the Enquirie, Marrow noteth these few things: First that it is no cause to impeach ỳ Enquiry, though the Iustice do not goe to see the place where the force is: and yet the words of the statute are, Whether the persons be present or auoided before the Iustices comming: Secondly, that albeit the letter of the Statute is, that each Iuror of this enquirie ought to haue lands or tenements of the cleere yeerely value of fortie shillings: yet if any of ỳ Presentors haue not so much land, the presentment is good for the King: but then (saith he) the partie shal haue no restitution by it, if that matter be shewed at the time of the Restitution to be made. Howbeit, I my self do not well perceiue, how the Restitution (that the Iustice of the peace ought to make vpõ such a presentment) can be staied, saue only either by remouing of the record into the bench of the King, or by alledging three yeeres quiet possession: Thirdly, that if the Sherife shal returne smaller issues vpon the Enquirors then the Statute doth appoint, yet the party shall neuer take aduantage of it.

Restitution. Furthermore, though in some cases for the punishing of the offendors (by imprisonment, and Fine) it be not altogether requisite to be found that ỳ party grieued is actually thrown out of his possession by them, insomuch as the onely holding with force will suffice for ỳ purpose: yet (in other cases) for the hauing of the resti-

restitution by the Statute, this putting out must of necessitie (saith M. Marrow) be found by the enquirie.

And therefore, if the truth of the case be, that after the death of A. another man abateth (or entreth) into his land forcibly, before the heire of A. hath gotten any actuall possession indeed: the heire of A. shal haue no restitutiõ (as Mar. saith) because he had but a possession in Law only. So, if it be presented, that you were seised, vntil that A. entred vpon you with Force: you shal neuer haue Restitution by it, because it may be that he entred forcibly, & yet ỹ you were not put out of possession by him, Marrow. But if it be found that you were seised vntill that A. put you out with force: or vntill that A. put you out, & that he holdeth in with force, then you shall be restored to your possession, Marrow.

And this putting out is alwaies to be vnderstood, either of a house (or land) onely, and not of a Rent, Common, Aduowson, or of any such other like thing, whereinto an actuall entry cannot be made, Mar.

Moreouer, it is not enough that the putting out be found, vnlesse the Enditement doe also containe *adhuc extra tenet*, that he yet holdeth the other out of his possession: without the which it may be thought that the other hath gotten in againe, and then Restitution shal be needlesse.

Againe,

Againe, this restitution ought to be made to him that was put out, and to none other: so that, if the father be put out by force, and dieth after the time of Enquirie, and before restitution, his heire shall not haue restitution vpon it, Mar.

And in some cases (saith Mar.) there may be a mutuall (or crosse) restitution awarded: as, if it be found by one Enquirie, that I my selfe was seised vntill that A. disseised me with force: and by another Enquiry, that the same A. was seised, vntill by me disseised with force: now either of vs may pray restitution, & shal haue it against the other: because it is by seueral Inquisitions, wherof the Iustices (supposed to be seuerall) cannot take mutuall vnderstanding: and then shall he be in the worst case, that hath the first restitution, for ỹ other shall haue him remoued, by his restitution that commeth after. So, (by his opinion) if it be found, that I my selfe was seised, vntil disseised by A. with force, whō also B. disseised w like force: here if A. getteth restitutiō against B. then may I also haue my restitution against A. But if I first obtaine my restitution, then hath A. lost the aduantage of his: because it appeareth by the selfe same Inquisition, who had the first possession. And if it happen two ioyn tenants of land to be put out with force, & the one of them only will sue for restitution, he ought to haue it made vnto him, Marrow.

But

But whether a Lessee for yeares of land, that is expulsed by force, shall bee holpen by these Statutes, it hath beene a good question. For, on the one side it is said, That albeit the preamble of the statute (15. Rich. 2.) hath the word (possessions) which may extend to a Lease for yeares, because that of such a Lease a man is said to be possessed, euen as he that hath an inheritance, or freehold, is said to be seised: and although also the puruiew of the statute (8. H. 6.) vseth the same word (Possessions) also, yet that (say they) is but onely where the force is to be remoued, and where the offendors are to be punished by imprisonment and Fine: all which, they grant may be done in the behalfe of a Lessee for yeares: but seeing that speciall branch of the statutue 8. H. 6. (which both directly prouide the restitution omitteth that word possessions, therefore (say they) none shall haue restitution but such only as bee put out of lands or tenements: and those words must be vnderstood of them only, that haue inheritance, or freehold at the least. So that, if such a Lessee (or any Copyholder) will be aided by way of restitution, the Enquirie must (by this opinion) finde the Lessor (or the Lord) to be forcibly put out, and expulsed: that by his restitution the Lessee or Copyholder may be restored also.

Restitut. a Lessee for yeares.

But on the other side, Marrow maketh no doubt, but that such a Lessee for yeares may haue

haue restitution by the hand of a Iustice of the peace. And (to accõpany him herein) who can deny, that the same inconueniẽce which (these Lawes doe labour to remoue) followeth not equally in either case: Besides that, the verie words of that special branch are these, If it be found that any doth contrarie to this Statute, then the said Iustice shall cause the said lands & tenements to be reseised, and shall put the party (so put out) in full possession of the same. Upon which words it followeth: First, ỹ if he which expulseth by force a Lessee for yeres, do cõtrarie to this statute (as it is granted ỹ he doth) then that Lessee ought to be restored to his possession by this branch: and secondly, if they will haue the life of the law to rest onely in the bare letters, & sillables therof, (a thing which wise men do condemne, and call *verborum aucupium*) then the words, be that he shall put in full possession, which word possession agrẽeth better with a Lease for yeares (as themselues say) then with a freehold, or inheritance, for which the word Seysin is altogether vsed. But the commõ opinion swayeth to the other side: therefore leauing this to the iudgement of the better learned, I will returne to the Office of our Iustice.

After the entry, or deteining with force shall be thus presented, the Iustice of the Peace may either by himselfe, or by directiõ of his precept to the Sherife (vnder the Teste of himselfe alone

ne) restore the party grieued to his posses-
on.

And if vpon a Writ of restitution awarded
e Sherife shall returne, that he is so resisted
at he cannot bring the party into his posses-
on, he shall be amerced for such his returne,
aith Marrow) because he may take the power
his county to assist him therein.

And it is certaine, that if the presentment
e sent into the Kings Bench, the party may
aue his restitution awarded out of the court
y the equitie of this statute: as it is holden 7.
.4.18. & 4. Hen. 7. 18. But if it happen that
ustice of the Peace (before whom the En-
uirie was taken) to die before Restitution
e deliuered by him, it may be doubted whe-
her his fellow Iustices (hauing the present-
ent brought vnto them) may at their Quar-
er Sessions award the Restitution: because
he statute seemeth to referre it to them only
efore whom the Enquirie was made. It is
I know) the opinion of M. Marrow that they
ay: grounding himselfe (as I thinke) vpon
he same Equity, by which the Iustices of the
Kings Bench are enabled to doe it: Howbeit
t may appeare (Collect. Dier 187.) that the
Law is otherwise taken, both therein, and al-
o in the granting of a *Supersedeas* to stay the
Restitution: because no Iustices can doe the
ne or other, but they only that were present
at ỹ Session when the Enditement was found,

except

except those of the Kings Bench, who (for the supposed presence of the King) doe carrie supreame authority in these cases of the Crowne.

But Marrow agreeth, that neither the Iustices of ỹ Kings Bench, nor any other (beside him that made Inquirie) can personally re store the partie, but by way of Precept one lie.

Trauerse. Againe, whether (after such a presentment) ỹ party charged may be admitted to his Trauerse before the same Iustice of the peate: and if not, then where, or before whom, this Trauerse is to be made or tendered, I wil not take vpon me to resolue.

This seemeth (vpon cõsideration of both the statutes,) to be plaine, that such persons as ỹ Iustice of peace doth finde, and see, continuing the force at his comming to the place, them he may immediatly commit to the gaole, as conuict of that offence, notwithstanding any their gainsaying whatsoeuer. But vpon the enquirie, I see not that the Iustice of peace hath any other power committed vnto him (by 8.H.6.) then to make the restitutiõ only, which also it seemeth that he may make, notwithstanding this offer of Trauerse. And if he will not so do, the safest way (in mine opinion) is, to deliuer or certifie the presentment into ỹ Kings bench, & so to referre the further proceeding therein to their further power and authority.

Againe

Againe, touching the Assessemēt of the Fines or ransomes, vpon the offendors, so conuicted by the Record of the Iustice of peace, & by his warrant conueied to the Gaole, some men doe thinke, that the same Iustice hath sufficiēt authoritie to put them to their Fines, and vpon pledges (found for the paiment thereof) to deliuer thē out of prison againe, when he by this discretion shall thinke it good. For (as they say) he is the only appointed Iudge ouer his offence, and only hath the custodie of that Record, and knoweth best both how to moderate the imprisonment, and to rate the fine, according to the quantity of their trespasse and offence: And, as he is bound by his oath and dutie (in their opinion) to estreat all Issues, and amerciamēts growing to the King, by his enquirie: So ought he also to estreate, and send this into the Eschequer: that from thence the Sherife may be commanded to leuie it to his Maiesties behoofe. Assessement of the Fine.

But (granting this to be true) yet (to auoid all peril of dashing against the rock of doubt) I thinke it the better course, to referre this ouer also, as I aduised in the case that went last before.

Now must I conclude, as doth ỹ statute (8. H. 6.) with this prouiso: that such as keepe their possession by force, after that they haue the continuance of three yeeres possession, shal not bee endamaged by force of that statute. And Continuance of three yeeres possession.

heere the booke (14.H.7.28.) staieth mee with one other question: for there it is said, that albeit in an Action vpon this Statute, it bee a good Barre for the defendant to plede his thre yeres possession, though it were altogether by force: yet (vpon an Inditement) twenty yeres possession by force shall neither be any plee against the King, nor shall hinder the party grieued from his restitution out of the Kings Bench. Vpon this authoritie, some haue conceiued this generall opinion that the continuance of three yéeres possessions will in no case protect a man against the King, but onely against the partie in his priuate Action by way of Barre.

Howbeit, if the words of the Prouiso, & the reason of inserting ỹ same, be but truly weighed, that opinion will not fall out altogether so reasonable, as it hath the shew to be faire, and plausible. For the words are, that such a one shall not be endamaged by force of the statute: & there is no doubt, but that he is deepely endamaged, which is both imprisoned, fined, & put out of his land, that hee hath so long and quietly possessed.

Againe, when this Statute had in generall termes (brought within the penalty of 15. R. 2.) all such as should detaine any lands or tenements with force after that they had peaceably entred into the same: yet was it thought iust and conuenient, to exempt from that punishment

nishment all such as (hauing entred in peaceable maner) had also continued their possessiõ three yeres together without any forcible deteiner of the same. And therefore it seemeth to me, that such persons be not onely to take the benefit of that prouiso, in actions vpon the statute to be commenced against them: but also to vse the aduantage of the same against an enditement for the King, to auoid the Imprisonment, and fine, and to debarre the partie of his Restitution by the hand of a Iustice of the Peace.

And hereupon M. Marrow writeth, that If the three yeeres possession be found by the Enquirie, then the forcible deteinors shall haue the aduantage thereof against the King also: which opinion I take to be verie reasonable, not generally vnderstood, but especially, and where (as I said) the deteinors did enter peaceably: For so was the opinion of Hales & Portman, Iustices, 6. & 7. E. 6. Report Dalison: and so likewise was the iudgement of all the Court, 22. H. 6. 8.

Neuertheless, the case being put (as it is in that Booke, 14. H. 7. 28.) both of a wrongfull and forcible entrie at the first, and then of a forcible deteinor also (though sundry yeeres continued) I do easily agree that such a violẽt holder should be denied the protection of this prouiso, not onely in respect of the King vpon an Enditement, but also in regard of the

partie grieued touching either his Action or Restitution.

So that the difference will rest in this (as I thinke) whether that continuall possession of three yeres do immediatly follow a peaceable, or forcible entrie. Continuall I say, because Iudge Brook (*Tit.* Forcible entrie 29.) seemeth to hold, that if that possession by three yeares haue not beene continuall, and without interruption, then (if he reenter) he cannot hold or detaine with force, be his right, or title neuer so good, and lawfull. See Collect. Dier. 141.14.

For the resolution of some part of this question & for remedie of a special inconuenience that grew thereby, the Parliament 31. Elizab. cap. 11. (hauing first written and allowed of that Prouiſio in the Statute 8. H. 6.) layeth downe a Lawe in these wordes following: Whereas now of late, diuers of her Maiesties subiects, hauing entries made vpon their possessions (hauing had such long and quiet possession) for disturbing of such Entrers, and for keeping of their possession against such Entrers by colour of Enditements of Forcible entrie, or forcible keeping of possession, found against them by meanes of the Oathes of such Entrers, haue beene remooued and put out of their dwelling houses and other possessions, which they haue quietly held by the space of three yeeres together, or longer time, next before such In-

Inditements found against them, against the true meaning and intent of the said Prouiso or clause contained in the said Act: For remedie of which inconuenience, and for true declaration and explanation of the Law therein, Be it ordained, declared, and enacted by the authoritie of this present Parliament, that no restitution vpon any Inditement of forcible entrie, or holding with force bee made to any person or persons, if the person, or persons so indited hath had the occupation, or hath bene in quiet possession, by the space of three yeeres together next before the day of such inditemēt so found, & his, her, or their estate, or estates therin not ended nor determined: which the partie shall and may alledge for stay of restitution, & restitution to stay vntill that be tried, if the other will denie or trauerse the same. And if the same allegation be tried against the same person or persons so indited, then the same person or persons so indited to pay such cost and damages to the other partie, as shalbe assessed by the Iudges, or Iustices before whom the same shall bee tried: the same costs and damages to be recouered and leuied, as is vsuall for costs and damages contained in Iudgements vpon other Actions. 31. Eli. cap. 11.

And now, these things thus pursued & passed ouer, I wil for the more cōplete furniture of the Iustice of peace in this seruice (against forbidden force) arme him with a few Prece-

dents, for helpe in his Enquirie, and making of Restitution.

The Precept to the Sherife, in nature of a *Venire facias.*

GEorgius Riuers, vnus Iusticiariorum Domini reg. ad pacẽ in comitatu Kanc. conseruandam assignatorum, vicecomiti eiusdẽ Comitatus salutem: Ex parte dicti Dom. reg. tibi mando & precipio quòd venire facias coram me apud Ightcham *in comitatu prædicto xx. die Septembr. proximo futuro xxiiij. probos, sufficientes, & legales homines de vicineto de* Ightcham *prædict. quorũ quilibet hab. xl. sol. terrarum & tenementorum vel reddituum per annum ad minus vltra repriſas, ad inquirendum super sacramentum ſuum pro dicto Domino rege, de quodam ingreſſu manu fortifacto in meſſuagium cuiusdam A.B. apud* Ightcham *prædict. contra formã statuti in Parliamento Domini H. nuper regis Angliæ sexti, anno regni ſui octauo tento, editi, vt dicitur: Et videas quod ſuper quemlibet Iuratorum per te in hac parte impanellandorũ xx. ſolid. de exitibus ad præfatum diem returnes: & hoc nullatenus omittas ſub pœna xx. lib. quam noueris te incurſ. ſi in executione præmiſſorum tepidus aut remiſſus fueris: Et habeas ibi tunc hoc præceptum. Teſte me præfato G.R. x. die Martij Anno regni Domini noſtri Iacobi Dei gratia Angl. Scotiæ, Franc. & Hib. Regis fidei defenſoris, &c.*

And vpon default of apparance of these Iurors, an Alias may be awarded, and after that pluries infinite, til they come: but so, that at the day

day of the second Writ R.S. must be returned at the third Writ C.S. and at euery day after, the double, as before hath beene touched.

The Enquirie (or Verdict) of the Iurors.

INquisitio pro Dom. Rege capta apud Ightham *in comitatu Kanc. xxix. die Iulij, anno regni Dom. nostri Iacobi, Dei gratia, Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis fidei defensoris, &c. Per sacramentum, A.B. C.D. E.F. &c. coram* Henrico Palmer milite, *vno Iusticiariorum dicti domini Regis ad pacem in dicto comitatu conseruandũ, nec non ad diuersa felonias, transgressiones, & alia malefacta in eodẽ comitatu perpetrata audiẽdũ & terminandũ assignatorum: Qui dicunt super sacramentũ suũ prædᵗ, quod C.D. de* Ighthã *prædᵗ.* Yeoman, *diu legitimè & pacificè seisitus fuit in dominico suo vt de feodo, de & in vno messuagio &c. cum pertinentijs in* Ighthã *prædᵗ, & possessionẽ ac seisinã suam prædict. sic continuauit, quousque A.B. de &c. & alij malefactores ignoti primo die Septem. vltimo elapso, vi & armis, videlicet cum baculis, gladijs arcubus & sagittis, in messuagiũ prædᵗ &c. intrauerunt, ac ipsum C.D. inde disseisiuerunt, & manu forti expulerunt, & eundem C.D. sic disseisitum & expulsum ab eodem messuagio, &c. à prædictᵗ primo die &c. vsque ad diem captionis huius inquisitionis cum huiusmodi fortitudine & potẽtia armata extrà tenuerunt, & adhuc extrà tenent in magnam pacis*

dict. dom. Regis perturbationem, ac contra formam Statuti in Parliamãto domini Henrici nuper regis Angliæ sexti, anno regni sui octauo tento, in tali casu editi & prouisi: vbi nullus eorum, nec aliquis alius cuius statum ipsi aut aliquis eorum habuerunt, aut habuit, aliquid in eodẽ mesuagio, &c. aut in aliqua inde parcella habuerũt, aut habuit, infra tres annos proximos ante ingressum suum prædictum, neque alio tempore præcedente ad notitiam Iuratorum prædictorum.

The Warrant to the Sherife for the making of Restitution, if the Iustice himselfe will not make it.

HEnricus Palmer Miles, vnus Iusticiariorum &c. assignatorum: Vicecomiti eiusdem comitatus Salutem: Cum per quandam Inquisitionẽ patriæ coram me captam apud Ightham in comitatu prædicto 29. die Iulij &c. super Sacramentum A.B C.D.E.F. &c. ac per formã Statuti de ingressibus manu forti factis in tali casu prouisi cõpertum fuit quod A.B. &c. & alij &c. primo die Septembr. &c. in quoddam mesuagium &c. C.D. &c. in Ightham prædict. vi & armis ingressi sunt, ac ipsum C.D. inde tunc manu forti disseisiuerunt & expulerũt, & prædictum C.D. sic expulsum à prædicto mesuagio &c. à prad' primo die Septemb. &c, vsq; ad diem captionis Inquisitionis prad' manu forti, & cum potentia extrà tenuerunt, prout per Inquisitionẽ prædictam plenius liquet de Recordo: Ideo ex parte dict. Dom.

reg.

reg. tibi mando & præcipio, quod ad hoc debito requisitus) vna cum posse comitatus tui (si necesse fuerit) accedas ac mesuagium & cætera præmissa, ac eadem, cum pertinentijs resaisiri facias, & præfatũ C.D. ad, & in plenam possessionem suam inde prout ipse ante ingressum prædictum fuerat seisitus, restitui, & mitti facias, iuxta formã dicti statuti, & hoc nullatenus omittas, periculo incumbente. Teste me præfato &c.

I come (at length) to the performance of that promise which I made concerning the statute of Northhãpton: for that also is of late daies frequently put in vre for the punishment of Forble entries.

The execution of a Writ vpon the statute of Northhampton.

That Law (in effect, and for this purpose) is thus: No man whatsoeuer (except the Kings seruant and Ministers, in his presence, or in executing his precepts, or their offices, and such as shall assist them, and except it be vpon cric or proclamation made for armes, to keepe the Peace, and that in places where such acts doe happen) be so hardy to come before the Kings Iustices or other his Ministers doing their offices with force and armes: nor bring any force in affray of the countrey: nor go, nor ride armed by night, or by day in Faires or Markets, or in presẽce of the Iustices or other ministers, nor in any place elswhere, vpon paine to forfait his armour to the King, and his body to prison at the kings pleasure, 2. E. 3. ca. 3.

Vpon

Upon this statute, hee that is put out, or holdē out of his land with force, vseth to haue at this day a writ directed out of the Chancery either to the Sherife only (as M. Fitzh in his Nat bre. fol. 149. rehearseth it, for I finde it not in the Register or Writs) or else *Custodibus pacis, ac vicecomiti, & eorum cuilibet* (as the cōmon maner is) commanding that Proclamation be made vpon the Statute: and that if any be afterward found offending against the same, they shall be committed to prison (there to remaine vntill that some other commandement be giuen concerning them) & that their armour and weapon shall bee prized and the same answered to the vse of the Kings Maiestie.

But for asmuch as that Iustice of Peace, (to whom this writ shall bee deliuered) is to make execution of the same, as a Minister onely, and is to certifie his doing therein: I thinke good, to lend these few helps towards it.

At his comming to the place, where ỹ force is supposed by this writ, hee may cause three Oyes for silence to be made, with this, or such an other Proclamation.

THE Kings Maiesties Iustice of his peace straightly chargeth and in his Maiesties name commandeth, all and euery person to keepe silence, whilest his Maiesties writ vpon

n the Statute made at Northampton in the cond yeere of King *Edward* the third, his no-le progenitor (deliuered to the said Iustice) be ead, and Proclamation be thereupon made ac-ordingly.

Then may he read the Writ, or declare the effect thereof in English.

After that let three other Oyes be made, and hereupon may this Proclamation follow.

HIs Maiesties said Iustice doth in his High-nesse name, and by vertue of his said writ, straitly charge and commaund, that no manner of person, of what estate, degree, or condition so-euer, now being within the house of B. &c. na-med in the said Writ, shall goe armed, nor keepe force of Armour or weapon, nor doe any thing here, or elsewhere, in disturbance of his Maie-sties Peace, or in offence of the said Statute, vpō the paines of loosing his said armour & weapō, & of imprisoning his body at his Maiesties plea-sure.

God saue the King.

This done, the Iustice may enter, and search whether there be any force of armour or wea-pon worne or borne against this proclamati-on: or otherwise he may enquire thereof by a Iurie, for so the Writ it selfe doth warrant him to doe: and if any such be found, he ought to imprison the offendors, and to seize & apprize

the

the armour and weapon so found with them. But if (vpon the proclamation made) they doe depart in peaceable manner, then hath he no warrant by the Writ to commit them to prison.

But now let me shew him a Forme of Certificat (or returne) of this Writ in the Chancerie, and then make an end.

Vpon the Writ it selfe these words may be endorced.

Executio istius Breuis patet, in quadã schedula eidẽ Breui consuta.

And the Schedule may be thus:

EGo Rogerus Twysden armiger, vnus custod' pacis Dom. Reg. in com. Kanc certifico in Cancellariam dict. dom. reg. quòd virtute istius Breuis mihi primo deliberati, decimo die Aprilis, anno &c. publicè proclamari ex parte dict. Dom. Reg. feci, apud B. cuius in dicto Breui fit mentio, prout in dicto breui præcipitur: Et quod quidam A.C. & D.E. de F. in comitatu præd' Labourers, prædictam proclamationem parui pendentes, post proclamationẽ præd' ibidem sic factam armati iuerunt, ac armatam potentiam ibid' duxerunt, scilicit duas galeas, vnum arcum, & decem sagittas, duos gladios, & totidem pugiones, in perturbationem pacis dict. Dom. reg. ac terrorem populi sui, necnon in contemptum Statuti in dicto Breui specificati, manifestum: Ac proinde

dict'

A.C. & D.E. *vnà cum armaturis ſuis præd' eſtaui ac ſeiſiui, & eorũ corpora ad proximam ſonam dict. Dom. reg. in com. præd' duci feci ibi- moratura donec aliud à dicto Dom. Reg. pro ip- deliberatione habuero in mandatis. Armatu- etiã eorũ præd' appretiari feci, per* A.B.C.D. & E. *de* B. *præd'* Yeomen, *ad hoc iuratos: qui di- t ſuper ſacramentũ ſuũ præd' quod præd' dua ga- valent decẽ ſol. Et quòd dict. arcus & 10. ſagit. lent 6. ſol. Et quòd gladij prædict' valent 20. ſolid: quòd dict. pugiones valent 5. ſol. & ſic quod ar- tura præd' valet in toto 41. ſolid. de quibus pa- us ſũ reſpondere ſecundum tenorẽ dicti Breuis. cuius rei teſtimoniũ, huic præſenti certificationi æ ſigillum meum appoſui. Dat. apud* B. *præd', die anno ſupradictis.*

By this you haue ſéene, what one Iuſtice of e Peace ought to do in the execution of this tute as a Miniſter: & by the ſame you may o ſée, what he may do therin of himſelfe, *Ex cio*, as a Iudge, & without any writ brought to him.

For not onely by the plaine wordes of the tatute of Northhampton, the Wardens of ȳ ace haue power (within their Wardes) and e commaunded to execute this Act vpon a ine: But alſo by good implication in the ommiſſion it ſelf, euery Warden of the peace ath the Statute of Northhampton commit- d to his charge. So that both in the matter nd manner, the doing is all one, ſauing that

that (if he doe it as a Iudge) hée néedeth not to make any proclamation (the statute being a prohibition in it selfe) nor yet to send any Certificat into the Chancerie, but only to make his owne Record of that which he shal doe in the behalfe, and thereout to send some estreit into the Exchequer, ỳ the King may be answered of the Armour, or of the value thereof.

And here (perhaps) the redemption of the imprisonment, may be at the discretion of the same Iustice, euen as in the former statutes of 15.R.2.& 8.H.6. it seemeth to be: but therein mine aduise shalbe the same ỳ I gaue them before: Adioyning this, That in the execution of this statute of Northampton, the Iustice of the Peace hath to doe with remouing of the force onely, and may not meddle with any restitution of the possession.

Of other breaches of the peace, with a multitude: As by *Riot*, *Rout*, or other vnlawful Assembly, &c. and what any one Iustice of the Peace may doe therein out of the Sessions.

Cap. V.

OVr Parliament seeing wel, that the assembly of many for breach of the Peace, offreth more danger & hurt, both generally to ỳ Cōmonwealth wherein it happeneth, and particularly to him against

gainst whom it is bent, then the force of any ne or two turbulent persons can bring, haue o lesse carefully endeuoured to suppresse the ne, then wisely foreseene to preuent & punish he other. And therefore not only the Commis- on giueth power to enquire of Conuenticles gainst ỹ peace, but sundrie statutes also haue euised many meanes & paines to meet with, nd to punish the same: whereas before, they ere punishable onely, as other trespasse, hough sometimes by a greater, & sometimes y a smaller fine, as the case it selfe required onsideration. Conuenticles

But vnlawful Conuenticles be not all of one ort for sometimes those are called Conuenti- les. wherein many doe impart with others heir meaning to kil a man, or to take on ano- hers part in all things, or such like.

Champerties also, Maintenances, Conspira- ies, Confederacies, and giuing of Liueries, (o- her then to Menial seruants and Officers) bee ontained vnder the word Conuenticles, saith Mar.

And it appereth (27. Lib. Ass. pl. 44.) to bee ne of the articles enquirable in the Kings Bench, whether any persons do take others to heir Auowment & protection, and doe receiue f them rents (or other gifts) yeerely in the ame of Chiuage (or rather Chiefage) because hey seem to take vpon thē to be their Chiefes, eads, or leaders. Chyuage.

But

But forasmuch as all these contentions ma
be without any apparant shew of Assembly
gainst the peace (though otherwise they be
nable offẽces vnder the name & calling of C
uenticles, as Mar. thinketh) I will leaue them
and resort to those other that the commissi
saith to be done, *vi armata*, and that doe bri
manifest terror vnto the subiect.

Of these some consist of a number of people
gathered together disorderly for the cause
some one or of a few persons, and do not bri
any generall or present danger to the Est
or Gouernment, and yet be against law, & b
called Riots, Routs, and Assemblies against th
law: against which the Statutes 13. H. 4. ca
7. 2. H. 5. cap. 8. &c. 19. H. 7. cap. 13. were sp
cially prouided: and before that the penalti
of the statute of Northhãpton 2. E. 3. ca. 3. wa
laid vpon them by 2. R. 2. cap. 6.

But others there be, that do sauor of a mo
generall disobedience, and be (in regard of th
number, or quarrel) a very Seed of Rebellion
if not the Weede it selfe: and are therfore all
somtimes called Rumors, great Ridings, Rou
and Riots against the peace 5. R. 2. c. 6. 7. R.
2. ca. 2. & 6. somtimes Assemblies of people i
great number, in manner of Iurisdiction. 2. H.
5. cap. 9. & sometimes Rebellions, Insurrecti
& Rebellious Assemblies, 15. R. 2. ca. 2. 8. H. 6.
ca. 14. and 1. Mar. Parl. 1. cap. 12. Of all which
(so farre forth as the Iustices of peace haue in-
terest

reſt in them) I will treat, but yet ſeuerally, nd ſo, as either one, or moe of theſe Iuſtices aue to do with them, and that out of the Seſ- ons.

They of the firſt kind be, as I haue ſaid, cõ- nonly called, Vnlawfull Aſſemblies, Routs, nd Riots: concerning the proper difference be- wéene euery of which, all men doe not alto- ether agrée. And therfore (reiecting all diuer- tie of opinions) I will follow that which I ake to be moſt probable, and at this day moſt ommonly receiued. Wherein neuertheleſſe I ubmit my pen to the experience of the Star- hamber, as to the beſt guide and direction, at in this caſe the Iuſtice of Peace can haue o follow.

An vnlawfull Aſſembly, is of the company Aſſembly. f three or moe perſons, diſorderly comming gether, forcibly to commit an vnlawfull act, s to beat a man, or to enter vpon his poſſeſſi- n, or ſuch like.

A rout (ſaith Marrow) is ſuch a companie Rout. aſſembled, for their owne common quarrell, s where the inhabitants of a townſhip come rcibly together to throw downe a hedge, tch, or pale in claiming their Common: or to eate a man that hath done vnto them ſome nblike offence, or diſpleaſure. But ỳ Statute 18.E.3.St.1.) ſpeaking of Routs ỳ are brought nto the preſence of the Iuſtices: and the Sta- ts (2.R.2.cap.6.) that treateth of riding in

great Riots to make entrie into lands, to bea men, or to carry away their wiues, &c. do seeme to vnderstand the word Rout in a mor ample and large meaning. And therefore I will describe it thus: A Rout is a disordered assembly of three or moe persons mouing for ward to commit by force an vnlawfull act. Fo it is a Rout, whether they put their purpo in full execution or no, if so be that they do pr ride, or mooue forward after their first me ting, Bro. Riot 4. & 5. And thereby it seemet to me to be ỹ very same, which the Germane do yet call Rot, that is a troupe, or band of m that doe ride or goe forward.

Riot. A Riot is thought to be, where three or mo persons be disorderly assembled to cõmit wr force any such vnlawfull act, and do accordin lie execute the same. This I thinke to bee d riued from the French word Riotter, signif ing to scolde (or brawle) because such manne of acts be cõmonly accompanied with word of brawle.

Things that be Common to Riots, Routs, &c. And thus (vpon the whole reckoning) a vnlawfull Assembly is the first degree or be ginning: a Rout, the next step or proceeding and a Riot the full effect and consummatio of such a disordered and forbidden action.

But howsoeuer that stands, two speci things there are, that be common & must co curre, both in the vnlawfull assembly, Rout Riot, the one, that three persons (at the least) gath

thered together; for so it is commonly hol-
n at this day, as I haue learned: the other,
at their being together doe breed some appa-
nt disturbance of the Peace, either by signifi-
tion of Speach, shew of Armour, turbulent
esture, or actuall and expresse Violence: so
at either the peaceable sort of men be vnqui-
ed and feared by the Fact, or the lighter sort
o busie bodies bee imboldened by the Ex-
ple.

Things that be considerable in Riots, Routs, &c.

And in these matters not onely the Fact it
se but also the Manner of doing the same,
leth sometime iustly into consideration: in
much as the lawfulnesse, or vnlawfulnesse
he thing it selfe that is done or intended,
h not alwaies excuse or accuse the parties,
a Riot, Rout or vnlawfull Assemblie, but so,
t the Manner and Circumstance of the do-
, must also be brought into Judgement
h it.

The manner.

And therefore (saith Maister Marrow) the
nner of the doing of a lawfull thing, may
ke it vnlawfull: As, if many in one com-
ie (riding or going, to the Sessions, Faire,
rket, or Church it selfe) will ride, or goe
ned, to the terror of the people. For al-
ugh it bee not onely lawfull, but meete,
necessarie also to goe to the Church and
ions, yet, to goe in such a shew, it is alto-
her needelesse, disorderly, and against the
.

So, if three (or mo) shall enter into land wit
force, where their entrie is otherwise lawful.
And contrariwise, an Assembly to do a wro
(saith he) may be so handled, that it shal pro
none of these offences: as, if I gather mo
company together, to carry away a piece
timber, (which will not be moued without
good many) whereto I pretend right, though
Law it be another mans.

And so also to doe an vnlawfull thing: as
many doe meete to play at bowles, tables,
cards, and do vse no misbehauiour against
peace, they are not punishable in this degr
And yet, if he that carrieth the piece of timb
away, wil vse dreadful words, as to say, th
he wil carry it in spight of him ỹ hath it, a
he wil haue it, though he die for it, or such
his doing may then become a Riot, Marrow.

Furthermore, the intention and purpos
those that be assembled, is worthie the weig
ing. For, to vse harnesse on Midsomm
night in London, or on May day in ỹ Coun
(for sport onely) is no such offence, seeing
terrour followeth of it: and the words *in ter
rem populi*, seeme to be material in an Indi
ment of this kinde.

So if the Sherife or his Bailife doe leuie p
ple to serue the Kings Writ of *Capias*: or
Constable doe gather assistance of men w
weapon to part an Affray, it maketh no R
3. H. 7. 1. & 10.

So if a man (hearing that another will fetch im out of his house & beate him) doe assemble ompanie with force, it wil be no vnlawful as-emblie: for his house is his Hold and Castle. But if, he be onely threatned, that he shall be eaten if he go to the Market, then may he not ssemble companie for his aide: because hée édeth not to goe thither, and he may prouide or himselfe by Suretie of the Peace, 21. H. 7. 9. Fineux.

And if many be assembled, and none of them noweth to what end, it can make no Rout, or Riot (as M. Marrow thought) till the intét e knowne. For if the maister intend to make Riot, and take his vsuall seruants with him, ot foretelling them what he intendeth to do, nd then committeth an outrage with them, his is no Riot in them: for although he shal be unished, they shall be excused, But otherwise it is, if he make them priuy to his purpose, for then they also shalbe punished: Mar. & Rep. Dalison. And in the former case it is ot material, whether his number of seruants e aboue his degrée, or no, so long as they be is Menials, or household men. Delison.

If many be at an Alehouse, a Christmas inner, or Churchale, and (without any intenion of an Affray) they sodainely fall together y the eares, and make it *Lapitharum conuiui-m*, yet this is no Riot, but a sodaine affray, beause they had no such intention: but if (in that

Record of Riot.

But, if one Iustice of the peace alone, will take vpon him to Record a Riot that he seeth, the party shall not be concluded thereby: for he may trauers it: and if the Iustice will commit one to ward, pretending vntruly that he did a Riot, where he did none, an Action of trespasse lieth for the party against him. Fitz. Tit. Iust. del. P. 9.

So that (vpon the whole matter) one Iustice of the Peace alone may doe somewhat to prevent a Rout or a Riot, before it bee done, and for the stay of it whilest it is in doing, but nothing (in effect) to punish it as a Riot or Rout, when it is committed & done. For (as Iudge Fineux saith) in that case of Sir Tho. Greene, the Statute (which I take as I said to be that of 34. of E. 3. rather then 13. H. 4. which by expresse words requireth the presence of two Iustices at the least) was giuen as a hastie remedy, & for to preuent a mischiefe being imminent and before the eye: and therefore the law shall largely construe the authoritie of a Iustice of Peace in that behalfe: So that he shall neither need to make any Precept in writing, nor to expect the comming of his companions, nor to be present in his own perso, but may vse all reasonable meanes for preuention and stay of the euil. And yet the ordinarie power of punishing Routs & Riots, resteth not in his hand alone, but rather belongeth vnto two Iustices of the Peace, as it shall hereafter appear.

In the meane while, it shall not be amisse to adioine somewhat for supply out of the statutes of our owne age: the which seeing further into the perils that insue of these disordered companies, haue also prouided further, as well in pollicie to preuent, as in seueritie to punish them.

The Statutes (1.Mar.Parl.1.cap.12.& 1. Eliz. c.17.) do make three degrees of Riotous and Seditious assemblies, in certaine special cases: the first, consisting of the cõmon number of three persons, and being vnder the number of twelue: the secõd of twelue persons or more: and the third of forty persons and vpward: All which are to bee punished diuersly, according to the number, intent, act and obstinacie of the parties assembled: wherein there is some imitation of an ancient Law that the King Ina made against theeues, whose degrees in offence he also seuered and punished by their number saying thus: Ðeofaſ þe hat̃ þoðde ſeofan menn; ſnam ſeofan hloþ oþ ſiſ ꝥſnit̃ viʒi ꝥ ſyððan hefe; that is, Theeues wee call them, vntill the number of seuen men: from seuen, a Troupe, vntill 35. and an Army aboue that number. But I will proceede.

Rebellions and vnlawfull assemblies.

One Iustice of the Peace therefore may (by vertue of these Statutes) make or cause to be made a Proclamation in the Kings name, (after three Oyes) thus: The King our Soueraigne Lord chargeth and commandeth all persons

Proclamation.

affray) they that betake themselues to sundrie parts, it may become a Riot, as Marrow thinketh: for then it is not the first, but a new assembly (as it were) in his meaning.

And if 12. Iurors (being committed to their keeper do fall out and fight, sir against sir, they) make they no Riot (saith Mar.) because they were lawfully assembled, and were compelled to be in company together.

But, if a number of women (or children under the age of discretion) doe flocke together for their own cause, this is none assembly punishable by these statutes, vnlesse a man of discretion moued them to assemble for the doing of some vnlawful act, as M. Marr. writeth.

Yet I remember wel, that (not many yeares ago) sundry women were punished in the Starchamber, & that worthily: because, putting on that shamefastnesse which beseemeth their sexe, they arraied themselues in the attire of men, & (assembling in great number) most outrageously pulled downe a lawful inclosure.

Finally, Marrow noteth, that if the Maior and Communaltie of a towne do assemble & make a Rout in their common quarrell, this offence shal be iudged and punished in their Natural persons, and not in their body politique.

Thus farre you see, what these offences be, & in what manner they may be committed: now therefore behold what power one Iustice of the Peace hath ouer them.

One Iustice of the Peace, can neither make nquiry of a Rout or Riot when it is done, nor ffesse any fine, not yet award any processe for , nor otherwise meddle with it (in the very ature of a rout or riot) but only as a Tresp gainst the Peace, or vpon the Statutes of Northampton, or of Forcible entries, whereof haue before treated.

The power of one Iustice of the peace in Riot, &c.

And therefore, if he heare of any rout, or of a- y intention of a riot, he alone (or with his ser- ants) may go to the place, and such as he fin- eth riotously assembled and armed, hee may rrest to finde Suretie of their good abearing may commit them to ward, if they refuse to ue it, e may take their weapons from them: nd if he come to the place, and doe not finde ẽ yet commen thither, he may leaue his ser- nts there, to make such arrest when they al come: So also, if he be sicke, hee may send s seruants to the place to arrest them.

And this is the iudgement of all the Court, that case of Sir Thomas Greene, 14. Hen. 7. in the booke at large: grounded vpon the ords, both of the Commission of the Peace nd (as I take it) of the Statute 34. E. 3. ca. 1. or, that which is found in the report of that me case (made by Fitz. *Tit. Iustice del Peace*,) hauing many other matters (not extant in e book of the Termes) seemeth rather to per- ine to the statute 13. H. 4. cap. 7. then to the atute of E. 3.

persons being assembled, immediatly to dis-perse themselues,& peaceably to depart to their habitations, or to their lawfull businesse, vpon the paines contained in the act lately made a-gainst vnlawfull and rebellious assemblies: And God saue the King.

And he also may (at his discretion) assemble his Maiesties subiects to take them: and may take them indeede if they disobey: and shal be vnpunished for the hurting, maiming, or kil-ling of any of them, if they make resistance. He also is to take the declaration of any per-son) that (being moued to any such assembly) will within 24. houres after reueale the same vnto him.

Now must I heere stay, and (for a time) goe no further with these assemblies: because the power of one Iustice of the Peace faileth me, and extendeth no further in them: therefore the rest shall bee disclosed, when order shall leade vs to intreat of the authoritie of two Iu-stices.

What

What other things any one Iustice of the Peace alone may doe out of the Sessions, by vertue of Statutes mentioned in the Commission.

Cap. VI.

Before that I shall descend to shew such further parts of power as be given to one Iustice of the Peace by later Statutes, it shall not be amisse to take in my way, the remnant of his authoritie which lieth closed in the first *Assignamus* of the Commission, and hath not beene yet fully applied to the practise.

Statutes lying close in the Commission.

The whole consisteth of such members as I haue alreadie shewed, namely, of the Statute made at Winch. 13. E. 1. of the statuts made at Northam. 2. E. 3. c. 3. the statute made at West. 5. E. 3. c. 14. and the Statute made at Cambr. 12. Ric. 2.

Of that statute at Northampton I haue heretofore said what I thought. Cõcerning Winch. and West. and the rest I say shortly now, that by the forme of the Commission one Iustice of the Peace may put the articles of them in execution: First, by commanding fresh suit, hue and cry, and search, to be made by the Sherifes, Bailifes,

Bailifes, and others, after thefts & robberies by enioyning watches to be kept for arresting of suspected persons, and of night-walkers; high waies to be enlarged: Then by seeing that two Constables be chosen in each Hundred and Franchise: by forbidding Faires & Markets to be holden in Churchyards: by compelling such as be betweene the age of fifteene yeeres and threescore to be sworne to the peace, for that also is in the Articles upon the Statute of Winton: and lastly, by charging Constables to arrest such as shall be suspected to be Drawlatches, Wastors, or Robersmen, that is to say, either miching, or mighty theeues: for the meaning must remaine, howsoeuer the word be gone out of vse.

And I doe not thinke, that any other manner of execution of these lawes (by one Iustice of Peace) ought to be gathered by the generall words of the first *Assignauimus*.

I know that M. Fitz. (in his Nat. Bre. f. 81.) saith, that albeit a Iustice of the Peace hath none expresse authoritie within his Commission to take a Recognisance of the Peace, yet of Congruence it followeth, that he may take it, because he hath authoritie in plaine words, to cause the peace to bee kept, and to compell men to finde Suretie for the same: and it is a rule of Law, *Concesso vno aliquo, etiam id concedi videtur, sine quo prius concessum haberi nequit*: but how farre these things may be drawne, I will not

not determine, remembring that this also is a-nother rule, *In generali concessione non veniunt ea, quæ quis non esset verisimiliter in specie conces-surus.*

Aduice to the Iustices of Peace.

This (to be plaine) I doe not like, that one Iustice of the Peace should take vpon him to binde an offendor against any penall law, (being within the power of Iustices of the Peace, but yet neither comprehended in the Commission, nor committed to the charge of any one of them) to appeare at the Session, to answere to his fault. For, although I haue seene sundry old Precedents of Attachments made from one Iustice of the Peace against Labourers, to be before the Iustices at their Sessions, to answere to their contempts: yet I am not perswaded, that the like may be done against the offendors of other Statutes, vnlesse it be specially therein so appointed: no more then it might haue beene done in that case of Labourers it selfe, had not the statute of Labourers (25. E. 3. cap. 6.) expressly commanded it.

And I doubt not, but they of the late Parliament were also of this minde with me: For, if they had thought it generally lawful so to do, they would not haue so specially prouided for it, as you shall anon see in the notes of the Statutes 5. El. touching Seruants, & (23. Eliz.) against Slaunderous newes, and against the taking of Pheasants and Partridges.

And surely much harme followeth of it: for it falleth

falleth out most commonly in experience, that those Iustices which be most busie to take such bonds, be no lesse readie to release them: and so (playing fast & lose) they keepe (as it were) priuie Sessions within their owne houses, in which, both the King loseth his Fine, and the common-wealth an example: and if the offendor lose also, then that (belike) falleth to the share of him that worketh the deliuerance.

And therefore, it were better, (as I weene) that such offendors were first indited, and then that Processe were orderly awarded against them, vntil that either they yeelded themselues, or were taken, or outlawed: the which maner of doing, as it is better warranted of the twain: so doth it recompence the delay of the punishment with the weight of the paine, and shal profit more then the former.

There is one other thing also, whereof I thought meet to admonish our Iustice of peace in this place. Many of them do vse to giue out their Precepts to attach persons suspected of Felonie, to the end to haue thē brought before thē: which thing is neither newly deuised by them, nor done without colour: for they haue such a precedent in the old book of Iustices of ỹ Peace, Fol. 41. and there is no doubt, but that if a Felonie be done, euery man may arrest whomsoeuer he suspecteth of it. But for all that, the whole Court (14. H. 8. 18.) condem-

neth

eth such precepts: because, if ỹ bailife, which erueth the warrant, haue suspition in the parie, he may of himselfe (without the warrant) rrest him: and if he haue not, then is the warant of a Iustice of peace no warrant to arrest im, vnlesse he be indited before.

What other things one Iustice of the Peace may doe, out of the Sessions, by the power of other statutes, not mentioned in the Commission, and therein of Manslaughter, and all other Felonies.

CAP. VII.

Any one Iustice of the peace.

SEeing the whole power of one Iustice of the peace (aswell in the veris businesse of the Peace it selfe, as in the executiõ of some statutes implied in the Cõmission) hath now at length bẽn rehearsed: It is conuenient to summe vp such other parts of authority also, as other statutes haue put into his hands: which done, we will no longer treat of one Iustice alone, but will associate some other vnto him.

Conseruator of Riuers.

Euerie Iustice of the peace is a conseruator of Riuers within his Countie: and (when he may attend it) ought to survey the Weares in riuers, ỹ they be of reasonable widenes: & shal

survey

suruey the offences of taking Salmons in any waters (out of the Countie of Lancaster) betweene the Natiuitie of the virgin Marie, and S. Martins day, and (there) betwéene the feast of S. Michael and the Purification of the said virgin: and of taking young Salmons at mylle powles or other places, from the middest of Aprill till Midsommer, and of casting nets into any waters, (by which the frie of any fish may be taken & may punish the same by burning of their nets and engine. Westm̃ 2. cap. 47. 3. R. 2. c. 19. & 17. R. 2. ca. 9.

Apprentices seruants and Labourers.

Any one Iustice of the Peace may take by him to heare and order the controuersies, betweene masters and seruants, touching their departure and may allow of the reason, and sufficiencie of ỹ cause for which a master may put away his retained seruãt, or for which the seruant may depart before ỹ end of his terme & he may (in hay time, or haruest) vpõ request & for ỹ sauing of corn, grain, or hay, cause such Artificers, & persons (as be meet to labour) by his discretion, to serue by the day, for the getting, cutting, inning, or carrying therof, according to ỹ skil & quality of the person: & may (vpon his refusal) imprison him in ỹ stocks, by the space of two daies & one night. And his testimonial vnder his hãd & seale to such as may passe in hay, & haruest time, from one shire to another, is sufficient. And hee also vpon complaint made, may commit that party to ward,

that

hat in his iudgement shall be thought meete, nd yet shall refuse to be bound as an Apprẽ- tice, accroding to the intent of the Statute, gere to remaine vntill he bee contented so to ee bound. And he also may by his discretion pon the complaint of the Apprentice, take or- er betweene his master and him, and for want f conformitie in the master, may bind him to ppeare at the nert Sessions before the Iusti- es, 5. Eliz. cap. 4.

Hunting.

Upon information of any Iustice to Peace f any vnlawfull hunting by night, or with ainted faces, or other disguising (in Forrest, Parke, or Warrein, of any person to bee sus- pected therof: that Iustices may make a war- ant to the Sherife, Constable, Bailife, or o- her officer, to take the partie, and to haue him efore him, or any other Iustice of the peace in hat Countie, who may examine him of that unting, and of the doers in that behalfe: and he do wilfully conceale that hunting, or any erson with him defectiue therein, then the me concealment shall be Felony in such cõ- ealor: but if he confesse the truth of al that he all be examined in that behalfe, then his of- nce of hunting shall be but Trespasse, and fi- able at the nert generall Sessions of the peace ere, 1. H. 7. cap. 4.

Vnlawfull games

Euery Iustice of the peace, may (as well ith in Liberties as without) enter into any ommon house or place, where any playing at

the bowles, coits, cloth, cailes, halfe bowles, tennis, dice, cards, tables, or at any other game, prohibited by any former Statute (as which sort be footeball, & casting of the stone, by 12.R.2.10.) or playing at any vnlawful game (alreadie inuented, or hereafter to be inuēted) shal be suspected to be vsed against this Statute: and may arrest aswel the keepers of such places as the Plaiers there, and imprison them vntill those keepers finde Sureties to the Kings vse (to be bound by a Recognisance, or otherwise) no longer to occupie any such play or place: and that the persons found there playing, be in like sort bound by themselues, or with sureties (at the discretiō of the taker) no more to play, or haunt, at, or to any of the said places, or at any of the said games. And every Iustice of the peace, finding, or knowing any person (not excepted by this statute) to vse any vnlawful game, contrary to this Act, may commit him to ward, there to remaine without Baile or Mainprise, vntil he become bound by Obligation to the Kiugs vse (in a summe to be thought reasonable to that Iustice) that he shal not from thencefoorth vse such vnlawful games, 33.H.8.ca.9.

The Inkeeper, Victualer, or alehousekeeper, that doth suffer any to continue tipling in his house, contrary to this Act, shal forfeit 10.s. and that selleth lesse then an ale quart of the best Beere or Ale, and of the small, 2. quarts for a penny

nny, rr. s. to the poꝛe of the parish foꝛ euery
fence, vpon view of the offẽce by any Iustice
Peace, oꝛ vpon pꝛoofe thereof by two wit-
lles befoꝛe any Iustice of peace. And foꝛ wãt
distresse foꝛ such foꝛfeiture the offender may
committed by such Iustice of Peace to the
mmon Gaole til the same be paid. And by
rrant from one Iustice of Peace, the foꝛfei-
es of Constables foꝛ neglect of their due-
s, touching this Act, may be leuied by di-
esse, & in default thereof, they may by him
committed to pꝛison till the same penalties
paid, 1. Iac. ca. 9. See 7. Iac. ca. 10. Tipling.

And vpon such view of any Iustice of peace,
pꝛoofe by witnesse befoꝛe such Iustice, the of-
der (in continuing typling in an Inne, Ui-
alling house, oꝛ Alehouse, in ỹ town where
welleth, contrary to this Act) shall foꝛfeit
. 4. d. to the poꝛe: And if such offender be
able to pay the same foꝛfeiture, such Iustice
Peace, may set him in the Stockes foꝛ 4.
res, 4. Iac. ca. 5. See 7. Iac. ca. 10.

ny Iustice of Peace in Lent time may en- Flesh.
into common victualing houses, &c. and
ing any Oxen, Bẽeues, Bẽenets, Hogges,
lues, Rams, Ewes oꝛ Weathers killed oꝛ
lled cõtrary to this statute, may seiz ỹ same
foꝛfeited, to be distributed to pꝛisoners, & o-
r poꝛe folkes by his discretion, 1. Ia. ca. 29.

ny one Iustice of peace (by the large woꝛds Tile.
he Statute) may enquire, heare and deter-

mine by his discretion, as well by examinati-
on as otherwise, the offences committed
Tilemaking, and Assesse the fine therein lim-
ted. And may call before him (at any time
place) such as haue best knowledge in Tile
making, and appoint them searchers of
said defaults, 17.E.4.ca.4. But learne wh-
ther it be so to be taken, or no.

Souldiers selling horse, or harnesse.

If any Souldier, serving the King in h-
warres, do sell, giue away, wilfully purloin
exchange, alter, or put away, any horse, g-
ding, mare, or harnesse, wherewith he shall
set forth, or which (being take from any oth-
souldier) shall be appointed vnto him, and
escape the punishment, which the Lieutenant
high Admiral, the Kings Deputy, the Vice-
mirall, Wardein, and Captaine, & their D-
puties, in their absence may lay vpon him,
this Statute: the vpon complaint & due p-
of the offence, to be made by the owner, his
ecutors or administrators, to any Justice
Peace, where such offender shall be found,
shal by him be cõmitted toward, (thereto
maine without Baile or Mainprise) til he sh
haue satisfied the owner, his executors, or a-
ministrators, of such horse, gelding, mare,
harnesse so sold, giuẽ away, &c. vnlesse he b-
with him before the same Justice sufficient
stimony from the said Lieutenant, or any
the persons aboue named (in writing vnd-
their Seale) testifying, that the said horse
by

rnesse was lost in the Kings seruice against
e will of the Souldiour, or was taken by a-
y of them from him for any reasonable re-
ect, and appointed to some other to serue
ithall, 2. & 3. E. 6. cap. 1.

Agnus Dei. If any person (to whom any *Agnus Dei*,
rosse, Picture, Beades, or such superstitious
ing from the See of Rome, or the authoritie
ereof, shall be offered or deliuered) doe dis-
ose the name & dwelling (or place of resort)
such offerer or deliuerer, to any Iustice of
e Peace of that Shire, where he, to whom
h offer or deliuery is, shall be resiant: then
Iustice must (within foureteene daies next
er) declare the same to some one of ỹ Kings
inie Councell, 13. Eliz. cap. 2.

Disturbe Preacher. If any offendour (contrary to the Statute
ouided against ỹ disturber of any Preacher)
all be arrested and brought before a Iustice
the Peace, then he (vpon due accusation
reupon had by the said arrestor, or other
tion) shall forthwith commit the partie so
ken to safe custodie, by his discretion, 1. Ma.
rl. 1. c. 3. But enquire, if all this Statute be
t repealed by 1. Eli. c. 2. in generall words
the later end thereof.

Egyptian. Euery Iustice of the Peace may (within one
oneth after the arriual) seize all the goods of
y outlandish persons (calling themselues
gyptians) that shall come into this Realme:
nay also keepe the one moitie thereof to his

owne vse, making account to the King in the Eschequer for the other moitie. And euery person that can proue by two credible witnesses before him that so seizeth, that any of the goods were craftily or feloniously taken from him, shal be incontinently restored thereto before the partie that so seized them, vpon paine of ỹ double value therof to be forfeited to the prouer, 22.H.8.cap. 10. But note that (after the moneth) the offence is made Felonie, and then it seemeth the King is to haue the goods wholly, 1.& 2.Phil.& Mar.ca.4.

Inrolment. If any one Iustice of the Peace doe ioyne with the Clarke of the peace, in taking ỹ inrolment of an Indenture of bargaine and sale of lands, tenements, or hereditaments, lying in that county where he is Iustice, it is sufficient, as it seemeth by the words of the statute 27.H.8.cap.16.

Worke of ware. Euery Iustice of the peace may examine and search (by his discretion) such as doe sell or set forth to be sold, any Candles, or other wares of Ware, at higher price then after the rate of foure pence the pound, ouer the common price of plaine ware, betweene merchant and merchant: and may also punish them by forfeiture of the worke set forth to sale, and of the value of that which is sold, and by fine to the King, 11.H.6.ca.12. as it seemeth by the last words of that statute.

Assecok fewel Any one Iustice of Peace is warranted to

n the Pillorie in the next market Towne to he place of offence, any person that hath bro-en the assise of Fewel, and is convicted there-f, and is not able to pay the forfeiture, there o be at eleuen of the clocke on the market day with a Billet, or Fagot, bound to some part f his body, 7. E. 6. c. 7. But consider where a Iustice of Peace may convict him of ỹ said for-eiture, or no: for it seemeth by the words of ỹ statute, that he is rather a Minister, then a Iudge in that case.

Plague.

One Iustice of peace, may command per-ons dwelling in infected houses to keepe in: And if, notwithstanding, they attempt to goe broad, they may bee violently enforced to keepe their houses, or do goe abroad, they be-come Felons, or punishable as Vagabonds, n seuerall cases mentioned in the Statute, 1. Iac. cap. 31.

Repaire to Church.

Any Iustice of peace of that Limit, Division, or Liberty where the party dwelleth, vpon proofe by cõfession of the partie or oath of wit-nesse, may call before him the partie offending n not repairing euery Sunday to Church, ac-ording to the statute (1. Eli. c. 2.) and if hee or he cannot make a sufficient excuse, & proofe hereof, the same Iustice may giue warrant to ỹ Churchwarden to distrein for twelue pence for euery such default: & for want of distresse may imprison the offender vntill paiment be made, 3. Iac. cap. 4.

Repaire to the Church.

If any person (aboue sixteene yeeres of age) doe by the space of twelue months, forbeare to repaire to some Church, Chappel, or vsuall place of common praier, contrary to the tenor of the statute (1. Eliz. c. 2.) then any Iustice of Peace of the County where such offendor shall dwel or be, may make Certificat therof in writing into the Kings bench, to the end that the offendor may thereupon be bound in 200. l. at the least with sufficiēt sureties to the good behauiour, for that his long obstinacie, besides the other penalties, 13. Eli. cap. 1.

Iesuits, and Seminaries, &c.

Any Iustice of Peace within that Countie, in which any Iesuite, Seminarie priest, or other Priest, Deacon, or Religious, or Ecclesiastical person (mentioned in this statute) shall arriue or land, may within three daies after, take the submission, oath, & acknowledgement of him, touching his obedience to the Kings Maiesty, and to his lawes and ordinances prouided in causes of religion, 27. Eliz. cap. 7.

And euery subiect, hauing vnderstanding that any such Iesuite, Seminarie priest, or other the aboue said, shall be within any the Kings dominions, contrarie to the meaning of this statute, ought to discouer the same vnto some Iustice of the Peace (or other higher officer) within twelu daies after such his knowledge, vnder the paine of a fine or imprisonment. And that Iustice of the Peace ought (within 28. daies after such discouery made vnto him) to

giue infoꝛmatiõ thereof to one of the kings iuie Counsel, vnder the pain of 200. marks, 7. Eliz. cap. 2.

Iesuits &c.

The partie (that doth first discouer to any stice of Peace any Recusant oꝛ other enter-ining oꝛ releiuing any Iesuite, Seminarie, oꝛ opish pꝛiest, oꝛ any Masse to haue beene said, nd any of them that were pꝛesent thereat, ithin three daies after the offence, and by eason of his discouerie any the offenders bee ken and conuicted) shall bee freed from dan-er of the offence (if he be an offender therein) nd haue the third part of the foꝛfeiture by ch offence, 3. Iac. cap. 5.

Masse.

Recusants.

Before some Iustice of peace of the County, Liberty, oꝛ limit, where the parents of a child ent beyond seas without licence, did dwell, uch child must take the oath expꝛessed 3. Iac. a. 4. And they that were beyond seas befoꝛe ỹ naking of this Act, are to take the same Oath within 6. moneths after their returne, befoꝛe ome Iustice of peace, where such persons in-abiteth: befoꝛe they can take the benefit of a-y Gift, conueiance, &c. of any lands, tene-ments, &c. 3. Iac. cap. 5.

Oath of Allegeance.

Those persõs of oꝛ aboue the age of 18. yeres (vnder the degree of a Baron oꝛ Baronesse) which stãd pꝛesented, indicted oꝛ conuicted foꝛ not cõming to Church, oꝛ receiuing ỹ Sacra-ment: oꝛ which by the Minister, Petie-consta-ble, & Churchwardens, oꝛ any two of them, are com-

cõplained of to any Iustice of P. & by him sus-
pected, may by such Iustice, within whose pow-
er such person is, or to whõ such complaint is
made, be required to take the Oath of Allege-
ance: and vpon refusall may be committed by
such Iustice to the common Gaole, without
Baile or Mainprize till the nert Assises, or ge-
nerall quarter Sessions, 7. Iac. cap. 6.

Pheasants, & Partridges.

Euery Iustice of peace may examine offen-
ces against the statute made for preseruation
of Pheasants and Partriges, and against bar-
king in corne (if the same offẽces be not before
lawfully heard, or determined otherwise) and
may take bond of the offender with good sure-
ties for his appearãce at the nert generall Ses-
sions of the peace, to answer to the said offence
& to pay the penaltie, or to receiue the punish-
ment due therefore: and may also after convi-
ction & punishment of such offẽder in taking
or killing Pheasants or Partriges, take like
bond of him and sureties, that (for the space of
two yeeres) he shall not offend against the said
Statute, 23. Eliz. cap. 10.

Pheasants, and Partridges.

Any one Iustice of Peace may take the Re-
cognisance appointed to be takẽ by offenders
in taking Pheasants or Partridges with Set-
ting dogges and Nets, or with other Nets,
Snares or Engines (contrarie to this Sta-
tute:) which Recognisance is to bee returned
to the nert Quarter Sessions, there to remain
of Record as other Recognisances, taken for
the Peace. 7. Iac. cap. 11.

It seemeth that one Iustice of the peace, may (vpon complaint of the party grieued) examin the Sherife, Vndersherife, & Plaintife, concerning the taking or entring of plaints in their Countie Courts and Bookes against the Statute: and if he finde thereby any fault or offence committed, that shall stand for a sufficient conuiction and attainder, without any further enquirie or examination: So may he also examine the Bailife of ỳ Hundred, for not warning of the Defendant in such a plaint, according to his precept frō the Sherife or Vndersherife, and if thereby he find any default or offence, that also shall stand for sufficient condemnation. And the said Iustice must certifie those examinations within a quarter of a yere into the Eschequer, 11.H.7.cap.15.

Plaints in the Countie Courts.

The Certificat of one Iustice of the Peace (ioyned with the Customer of the place) of the vnlading and selling of corne, grain, or cattel, caried by water from one place to another of this Realme, vnto the Customer & Controller of the place where the same was imbarked, is sufficient and inough vpon the statute of forestalling, 5.Ed.6.ca.14.& 13.Eli.ca.25.

Certificat of selling Corne.

One Iustice of peace may take out of sanctuary certain persōs abiured thither, & others being indited of some kind of offences (mētioned in ỳ statute) done after they become Sanctuary men: & may cōmit thē to the gaole in the Countie where the inditement is found, till they be tried,

Sanctuaris persons.

cõplained of to any Iustice of P. & by him suspected, may by such Iustice, within whose power such person is, or to whõ such complaint is made, be required to take the Oath of Allegeance: and vpon refusall may be committed by such Iustice to the common Gaole, without Baile or Mainprise till the nert Assises, or generall quarter Sessions, 7. Iac. cap. 6.

Phesants, & Partridges.

Euery Iustice of peace may examine offences against the statute made for preseruation of Phesants and Partriges, and against hawking in corns (if the same offẽces be not before lawfully heard, or determined otherwise) and may take bond of the offender with good sureties for his appearãce at the nert general Sessions of the peace, to answer to the said offence & to pay the penaltie, or to receiue the punishment due therefore: and may also after conuiction & punishment of such offẽder in taking or killing Phesants or Partriges, take like bond of him and sureties, that (for the space of two yeeres) he shall not offend against the said Statute, 23. Eliz. cap. 10.

Phesants, and Partridges.

Any one Iustice of Peace may take the Recognisance appointed to be takẽ by offenders in taking Phesants or Partridges with Setting dogges and Nets, or with other Nets, Snares or Engines (contrarie to this Statute:) which Recognisance is to bee returned to the nert Quarter Sessions, there to remain of Record as other Recognisances, taken for the Peace. 7. Iac. cap. 11.

It

It seemeth that one Iustice of the peace, may (vpon complaint of the party grieued) examin the Sherife, Vndersherife, & Plaintife, concerning the taking or entring of plaints in their Countie Courts and Bookes against the Statute: and if he finde thereby any fault or offence committed, that shall stand for a sufficient conuiction and attainder, without any further enquirie or examination: So may he also examine the Bailife of ỹ Hundred, for not warning of the Defendant in such a plaint, according to his precept frō the Sherife or Vndersherife, and if thereby he find any default or offence, that also shall stand for sufficient condemnation. And the said Iustice must certifie those examinations within a quarter of a yere into the Eschequer, 11.H.7.cap.15.

Plaints in the Countie Courts.

The Certificat of one Iustice of the Peace (ioyned with the Customer of the place) of the vnlading and selling of corne, grain, or cattel, caried by water from one place to another of this Realme, vnto the Customer & Controller of the place where the same was imbarked, is sufficient and inough vpon the statute of forestalling, 5.Ed.6.ca.14.& 13.Eli.ca.25.

Certificat of selling Corne.

One Iustice of peace may take out of sanctuary certain persōs abiured thither, & others being indited of some kind of offences (mētioned in ỹ statute) done after they become Sanctuary men: & may cōmit thē to the gaole in the Coūtie where the inditement is found, till they be tried,

Sanctuaris persons.

tried, 22. Hen. 8. cap. 14.

Robberie. No person shall (after that he shall be robbed) bring any action vpon any the Statutes concerning Huy and Crie, except he shall first (within twentie dates next before such Action brought) be examined vpon his corporall oath before some one Iustice of the Peace of the Countie wherein the robberie was committed (inhabiting within or neere the Hundred where the robberie was committed) whether he doe know any of them that did the Robberie: and if vpon such examination he doe confesse that he knoweth any of them, then also shall he (before such action be brought) enter into Recognisance before the same Iustice effectually to prosecute such persons (so knowne) by Enditement, or otherwise, according to the due course of the lawes of this Realme, 27. Eli. ca. 13.

Malt. If any Bailife or Constable, of any Borough, or other towne, shall find any Malt, made contrarie to the Statutes (2. & 3. E. 6. cap. 16. & 27. Eli. cap. 14.) then, with the aduice of any Iustice of Peace within the shire, he shal cause the same to be sold, to such persons, & at such reasonable prices (vnder the common price of the market) as to his discretion shall seeme conuenient.

Malt. The party conuicted & committed to prison, by the Iustices of peace, for not obeying this restraint of conuerting Barley into Malt, must there

there remaine three dayes, and after that vntil he shall become bound in Recognisance of forty pounds to the Kings vse before any Iustice of the Peace, to obey such his restraint, 39. Eli. cap. 16.

Spawne of Sea-fish.

By warrant of any one Iustice of Peace, the Constables and Churchwardens, where any offence is committed, in destroying the Spawne and broode of Sea-fish against this Act, may leuie the forfeitures of the offenders by distresse and sale of goods, 3. Iac. ca. 12.

Watermen.

Euerie Iustice of the Peace (as it seemeth) within the Shires next adioyning to the riuer of Thames, within his seuerall iurisdiction, hath power (vpon complaint made vnto him) by the Ouersèers & rulers of the Watermen and Wherrimen (or two of them) or by the masters of any such seruants, both for to examaine, heare and determine, all offences against ỹ statute, & to set at large him that shall be imprisoned by such Ouersèers or Rulers (if there be iust cause) and also by his discretion to punish those ouersèers and rulers, that shall vniustly punish any person, 2. & 3. Phil. & Mar. cap. 16.

Stolen horse.

Any Iustice of Peace (within sixe monethes after the sale in market ouert, of any stollen horse, mare, gelding, colt, or fillie) may take the claime, & heare the proofe of the right proprietarie thereof, 31. Eli. ca. 12.

Any

Seditious Sectarie.

Any one Iustice of the peace may within three moneths after the conuiction of any seditious Sectaries (described in the Statute 35 El. c. 1) require the submission of him to conformitie, and in default of such submission, may require him to abiure this Realme, 35. Elizabeth. cap. 1.

Not to come to Church.

Euerie Iustice of peace also may giue notice to any person to forbeare to relieue, or keepe such as shall obstinately refuse to come to the Church by the space of a month together, 35. Eliz. cap. 1.

Rogue.

Any Iustice of the peace may appoint any person to be openly whipped naked vntill his or her bodie be bloudy, that shal be taken Begging, wãdring, or misordering him or herself, and is declared by the Statutes (39. El. ca. 4. & 1. Iac. c. 7) to be a Rogue, Vagabond, or sturdie Begger. And shall cause such person so whipped to be forthwith sent frõ Parish to parish, by the Officers of euerie the same, the next streight way to the Parish where such person was borne, if that may be knowne by the parties confession, or otherwise: and if not, thẽ to the parish where such person last dwelt before that punishmẽt, by ỹ space of one whole yere, there to labour: Or (not being knowne where such person was born, or so dwelt, then to the Parish through the which such person last passed without such punishment. And such Iustice shall vnder his hand and seale make a Testi-

moniall

moniall witnessing such punishment, and the day and place thereof, and mentioning the place to which such person is limited to goe and by what time, at his or her perill, and in case such place of birth, or last dwelling bee not known, then such person shall by the Officer of the village (through which he or she last passed without punishment) be conueied to ỹ house of correction of ỹ limit wherin that village is, or to the common Gaole of that place or Countie, there to remaine in worke til such person be placed in seruice for one yeeres continuance: Or (not being of able bodie) til such person shall be placed in some Almes-house of that place or County, 39. Eli. ca. 4. 1. Iac. ca. 25.

The forme of which Testimoniall, may in effect be the same, which was latelie in vse by the Statute 22. H. 8. ca. 12. now repealed, viz.

Kent.

IOhn at Stile, a sturdie vagrant begger, of lowe personage, red haired, and hauing the naile of his right Thumb clouen, was the sixt day of *April* in the second yere of the Raigne of our Soueraigne Lord King *Iames*, openly whipped at *Dale* in the said County, for a wandring *Rogue*, according to the Law: and is assigned to passe forthwith from parish to parish by the Officers therof, the next straight way to *Sale* in the coũtie of *Middlesex*, where (as he confesseth) hee was

was brone (*or dwelled last by one whole yeere &c.* if the case be such) and hee is limited to bee at *Sale* aforesaid, within ten daies now next ensuing, at his perill.

By the occasion of this Testimoniall (or passe I thought it seruiceable to aduertise, that it is needfull, both in this, and in al other Testimonials, Certificats, Safe-conducts, and Passeports whatsoeuer, to annote and specifie expressely, some assured marks of the party, as his stature, colour of haire, complection, or (if it may be) some apparāt skarre, or other Note, by which he may be infallibly distinguished and known from others: least (as I haue often found) both himselfe take the benefit thereof, & he also communicate the vse of the same to others, in abuse of him that made it.

And by occasion also of this power giuen to one Iustice for correction of Rogues, I trust that I may (without offēce to any) make publike vse of those graue resolutions & aduises, that being in the hands of sūdrie men abroad, are cōmonly ascribed to the late Queens Ma. Iustices at West. and do tend much to the right execution of this and the other Statute (39. Elizabeth. Regin.) concerning Rogues and the poore, which onelie (of all our lawes) haue most Christianly and ciuilly giuen order in that behalfe, and are therefore with so much the more care and diligence to bee put in vre

amongst

amongst vs, as they will not onely deliuer vs of the present burthen, but also destroy the verie brood of this vnruly people.

Thus they stand in my copie, *viz.*

A Rogue affirmeth that he was borne in such a towne in such a County: then ought he to be sent thither if it may not otherwise appeare that he was borne else where: and if he were not borne there in truth, then is he to be said an incorrigible Rogue, and is to bee sent thence to the house of Correction in the countie to which he is sent, and if there bee none there, then to the Gaole, vntill the next Sessions, there to bee dealt with according to the Statute.

2 The same course is to be obserued, if it appeare not where he was borne, or if he vntruly affirme that hee was last dwelling in such a towne, in such a county, by the space of a yeere, and was not.

3 If the Husband or Wife haue a house, and the Husband or wife Rogue about, they ought to bee sent to the towne where that house is; and so of an Inmate.

4 The Wife and children (vnder seuen yeares of age) being vagrant, must go and be placed with the Husband: if the Husband be dead, then with the Wife where she was born, or dwelt. And the vagrant Children (aboue seuen yeeres of age) must be sent to the place

of their Birth, and if the vagrant parents with their children (vnder seuen yeeres) be placed at the place of birth of the Parents, or at the place of last dwelling (as the case shal fal out) if afterward the parents or either of them die, or runne away, yet the children once setled must remaine there still, and may not be sent to their place of birth, though after they grow aboue the age of seuen yeeres.

5 The Wife being a vagrãt Rogue, ought to be sent to the Husband, though he be but a seruant in another Towne.

6 The Rogue whose place of birth (or dwelling, cannot be known, hath wife and childrẽ vnder seuen yeeres of age: they must go with the husband to the place where they were last wilfully suffered to passe without punishmẽt: where the children must bee relieued by the worke of their parents, though the parents be committed to the house of Correction.

7 If any (not being Rogues) shall trauell with their children through a Towne, and the Father or Mother die, or runne away, the Towne is not bound to keep them where they die, nor to send them away, but only in charitie, except they become wandring Beggers.

8 If the Parents bee able to worke, and may haue worke, they are to finde their children by their Labour, and not the parish: But if they be ouerburthened with children, it shal be a very good way, to procure some of them

to

to be placed Apprentices according to the Statutes.

9 No man is to be put out of the Towne where he dwelleth, nor to be sent to their place of Birth (or last habitation) but a vagarant Rogue, nor to be found by the Towne, except the partie be impotent, but ought to set themselues to labour, if they be able and can get worke, if they cannot, the Ouerseers must set them to labour: And so of them that haue or shall haue houses, when their estates be expired: And seruants whose times of seruice are ended, though they cannot get houses: for they must prouide themselues houses anew if they be not impotent.

10 Such persons as be of any Parish, and haue able bodies to worke, and be no wanderers abroad out of the Parish, though they refuse to worke at such wages as is tared (or commonly giuen) in these parts, are notwithstanding not to be sent to their place of Birth, or last dwelling by the space of a yeare, but to the house of Correction, vpon consideration had of both the Statutes, of the poore and Rogues. But if they haue any lawfull meanes to liue by, though they be of able bodies, and refuse to Worke, yet are they not to be sent to the house of Correction.

11 Such as will Remoue or put any out of their Parish, that be not to be put out, this is against the Statute, concerning the reliefe

of the power, & finable: And if any haue beene so sent, they may be sent back againe.

12 If any bee sent to a Towne whereto hee ought to be sent, and is refused (being a Sturdy or an impotent Rogue) the persons refusing shall forfaite fiue pounds, and he that is so to be sent, is to be offered to the Church-wardens and Ouerseers.

13 To send the Rogues by a generall Pasport without conueying them from Parish to Parish, is a let to the conueying of Rogues according to the Statute, and so a forfaite of fiue pounds vpon them. And to goe with such a Pasport, is but still to continue a Rogue, to be punished by whipping.

14 If the Officer will not receiue a Rogue to conuey him to the place where he was borne (or dwelt) this is a forfeiture of fiue pounds in the Officer, that shall not receiue the party to conuey him or her ouer.

15 None may be suffered to take reliefe at any mans doore, though within the same parish, vnlesse it be by the order of the Ouerseers, according to the Statute, neither may any be suffered to begge by the highwayes, though in their owne parish.

16 By this word Parents, is vnderstood a father, or a grandfather, mother, or grandmother, being persons able.

17 Within the word Children, is included any child, or grandchild being able.

18 Par-

18 Parsons, or Vicars, &c. be bound (as inhabitants) to the releefe of the poore, as well as others that inhabit within the parish.

18 Euerie one that hath tithes impropriat, coale mines, or lands in manuel occupation, &c. is chargeable. And so for such as haue salable woods proportioning the same to an annual benefit.

Charge of concerning ye poore.

20 If there be but one churchwarden in the parish, he sufficeth with the other foure ouerseers.

See the Statute 1. Iac. ca. 4. for the due punishmēt of Rogues, Vagabonds, & sturdie beggers, and other lewd & idle persons.

Logwood.

Upon Information giuen to any Iustice of the peace, against any person suspected to offend this Statute, concerning Logwood, (alias Blockewoode) such Iustice may by his Warrant, or other Commandement, cause to come before him, and examine (by Othe, or otherwise) the seruants, or workemen of such Suspect, or other persons, able to disclose the offence: and upon finding the same, to bind with suretie, to the next Gaole deliuerie, or Quarter Sessions, of that Countie, as well such Suspect, as Examinats, and to send thither the said Examinations also. And if such Suspect shall refuse to be so bound, then may such Iustice send such Suspect to the next Gaole, there to remaine, till he, or she shall become so bounden 39. Elizab. cap. 11.

Northerne Cloth.

Euerie Iustice of the peace, of any of ỹ counties on the North side of ỹ riuer of Trent, hath some power in searching out the deceit of straying or stretching those country Clothes, Kersies, Cottons, &c. contrarie to the Statute 39. Eliz. cap. 29.

Charges of conueying an offendor to prison.

Any Iustice of Peace, hauing committed to the Gaole an offender, refusing to defray the charges for conueying him thither, may giue warrant to the Constables or Tithingmen, to sell so much of the offenders goods, as will satisfie such charges: And where the offender hath no goods, the taxation made on the towne where he was taken, must be allowed vnder the hand of one Iustice of Peace: And by warrant from such Iustice, the goods of the person refusing to pay such Assesse, may be distreined and sold, 1. Iac. cap. 10.

Examination of Felons.

Euery Iustice of the peace, before whom any person (arrested for manslaughter, or Felonie, or suspition thereof) shal be brought, ought (before he commit him to prison) to take the Examination of such prisoner, and the Information of those that bring him, and to put the same (or so much thereof, as shall be material to proue the Felony) in writing within two daies after: and to take bond of all such as doe declare any thing (material to proue that offence) to appeare at the next generall gaole deliuerie, and to giue euidence there against the offendor, 2. & 3. P. & M. cap. 10.

Here

Here you may sée (if I be not deceiued) when the examination of a Felon began first to bee warranted amongst vs. For at the common Law, *Nemo tenebatur prodere seipsum*, and then his fault was not to be wrong out of himselfe but rather to bee discouered by other meanes and men.

And heere againe, am I iustly occasioned to draw the thréd of my speech a good deale further, before I can conclude this part concerning the power of any one Iustice of the Peace.

For whereas this law requireth, that hee should not onely take the Examination of the fact, & bond of the Informers, but also that hee doe therewithall make choise of such things as be materiall to moone the suspicion, or to proue the offence: It séemeth necessary to me, both to shew him the maner of ỹ Examination, and forme of the Bond, and withall to let him sée, what things be materiall to induce this Suspicion, and what sorts of Felonies there are wherewith he hath to deale, to the end that he may both discerne them from other facts that carrie onely some resemblance of them: and also the better vnderstand, when to commit to prison the parties accused before him, and whē he shall not need to trouble himselfe so farre with him.

Examination vpon oath.

And first, because some Iustices of peace, doe vse to take this Information (of the bringers)

vpon their othes, and some others doe receiue it without any oath at all: Let vs see, what is wont to be said on either side, that euery man may the better see what way to encline and follow.

They which make this Information, or Examination (for this Statute doth vse both the words indifferently) without any oath, do say, That if the makers of this statute had meant that an oath should be taken, then would they haue expressed so much: euen as the Statutes for Bankrupts (34.H.8.cap.4.& 13.Eliz. cap. 7.) the Statute of Accomptants (5.R.2.cap. 13.) the Statute of Labourers (2.H.5.cap.4.) and the Statute of chusing Knights of the Parliament (8.H.6.cap 7.) haue done before in all wich, and some other statutes, examination vpon oath is giuen by expresse and plaine words.

But they on the contrarie side doe strongly defend their acting of an oath, by the example of the Iustice of the Higher Courts: and doe alleadge, That whereas the Statute (5. H.4.cap.8.) did ordaine (without any mention of oath) that in action of Debt vpon the arrerages of an account, the Iustices should haue power to examine the Accountes, and others: the Iustices of the Bench doe vse in that case to minister an oath vnto the examinates, as it appeareth, 19. Hen.6.4. & 33. H.6.5.

The like (say they) is daily done & practised in all the examinations of Summoners, Viewers, Sheriffes, Clerkes, and other Officers, that do happen in the higher Courts at Westminster. And M. Brooke (Tit. Examination 32.) is of the opinion, that every examination is to be handled vpon oath. And therefore (belike) the statute (2. E. 6. ca. 13.) giuing power to the Ordinary to examine a man for his personall tithe, excepteth an oath, as though otherwise he might haue required it of him.

Besides all this, they adde for reason, that if these informers be examined vnder oath, then although it should happen them to die before the prisoner haue his triall, yet may their information be giuen in Euidence, as a matter of good credit: whereas otherwise, it would be of little or no weight at all, and thereby offendors should the more easily escape.

To this later opinion I my selfe am readie to subscribe, as wel because I haue heard some Iustices of Assise deliuer their minds accordingly, as also for ỹ I haue foũd by experiẽce, that (without such an oath) many Informers will speake coldly against a Felon before the face of the Iustice, hauing (belike) first made their bargain with ỹ offendor (or his friends) before that the Iustice did heare of the cause.

The Bond (spoken of in this Statute, and in some other) seemeth to be meant of a Recognisance acknowledged vnto the Kings vse, and condi- The taking of the bond.

conditioned for the performance of that which the statute appointeth. For (as before hath bin said) euen as in the cases of Surety of the peace and Good abearing, the Iustice of the peace taketh vsually a Recognisance, and is warranted so to do, being made a Iudge of Record as touching matters of the Peace, though hee hath no full words for it either in any statute, or in the Commission: So, being authorised by this statute to deale in this matter, he may be well said to haue therein implied (by good Congruence) a power to record the acknowledging of a summe of money, forfaitable to the King for not performing the condition of the same.

The party therefore that informeth against the Prisoner, may be thus bound in a single Recognisance.

Kanc. *Memorandũ quod tertio die Aprilis, anno regni Domini nostri Iacobi, Dei gratia, &c. D. E. de* Brasted, *in comitatu predicto* Yeoman, *personaliter coram me* Tho. Potter, *vno Iusticiariorũ &c. ad pacem &c. assignatorum constitutus, apud* Brasted *prad. recognouit se debere dicto Dom. Regi decẽ libras bonæ & legalis monetæ Angl. de bonis & catallis, terris & tenementis suis fieri & leuari ad opus dicti domini Regis hæredum & successorum suorum, si defecerit in conditione indorsata.*

Th. P.

And

And with such a Condition.

THE Condition of this Recognisance is such: whereas one A.B. late of C. Laborer, was this present day brought before the said Iustice by the aboue bound D. E. and was by him charged with the felonious taking of xx. sheepe of him the saide D. and thereupon was sent by the said Iustice to the Kings Maiesties Gaole: If therefore he the said D. shall and will at the next generall Gaole deliuerie (to be holden in the said Countie) preferre or cause to be framed and preferred, one bil of Enditement of the said Felonie, against the said A.B. and shall and will then also giue euidence there concerning the same, as well to the Iurors that shall then make enquirie of the said Felonie, as also to them that shall passe vpon the Triall of the said A. B. That then, &c. Or else &c.

The causes of suspition.

Touching the points that may ingender suspition, I need not to say much, knowing that I speake to men of discretion and wisedome, to whom *Omne mendacium est pellucidum*: And yet seeing that *Initia debent ab arte proficisci, quanquam cætera facilè comparabit exercitatio*: I take it not vnseruiceable to insert here, such a Briefe (or minute) thereof as I haue collected out of Cicero, and others, whereunto all the rest (which the wit of man may inuent) will easily be referred.

Sermo

Sermo Iosuæ, ad Achan.

Fili mi, da gloriam Domino Deo Israel, & confitere atq; indica mihi quid feceris, ne abscondas.
Lib. Ios. cap. 7.

The examination of an offence, is a coniectural state

A Precedent, as his

Will to doe the fact, which is gathered by

Power to commit the act, which is to be considered, by his

1 The disposition of the person, by

1 Parents: as if they were wicked, and giuen to the same kinde of Fault.
2 Sexe: for some offences are more commonly found in one Sexe, and some in the other.
3 Education in his
- Childhood.
- Youth.
- Mans state.

Whether idle, & without honest occupation: or riotously in diet, play apparel: whether brawling, quarrellous, light fingered, or bloudihanded, &c.

2 The cause inducing him to vndertake it, which is either

1 Forcible (or impulsiue) as, for reuenge of former displeasure, or vpon sudden offence.
2 Persuasiue: as for hope of gaine, whereof he is needie, or greedy: or for the eschewing of any hurt, where of he was afraid.

1 Wit: subtiltie: courage of mind: meete to enable him.
2 Strength, or swiftnes of body, to warrant him.
3 Countrie: kindred: wealth: friends: office: to couer him.

of a cause: and it is to bee weighed by matter, either

2 Present, or instant, as the

- Time: as being very early or late, which be fit for the doing of euill that will not abide the light
- Space sufficient to performe the feate.
- Place, conuenient & meete for the act: as Wood, Dale, house, or other place of aduantage

} and his being then there.

- Occasion, rightly taken, as which being omitted, the fact could not follow.
- Comparison, as that none but hee, or none so commodiously as hee, could commit the fact.
- Hope, to haue it concealed by these aduantages, or to escape with it.

3 Subsequent, as

- Common voice and fame, against him, that he did the offence.
- Witnesses that prooue it, either probably, or necessarily.
- Signes, which discouer him: as by hauing blood, or the goods about him: his flying away: his blushing, or change of countenance: his being in company with other offendors: his offer of composition: the measure of his foote: the bleeding of the dead body, &c.
- Confession, as his owne doubtfull, or inconstant speaking: his repugnancie with others speech, &c.

The Mittimus of the Prisoner, after his examination taken, may stand thus.

Kent. IOHN SCOT Knight, one of the Iustices, &c. to the Keeper of his Maiesties gaole at Maidstone in the said Countie, &c. greeting. I send you herewithall the bodie of A. B. late of C. Labourer, brought before me this present day, and charged with the felonious taking of twentie sheepe, which also he hath confessed vpon his examination before me. And therefore these are (on the behalfe of our said Soueraigne Lord) to commaund you, that immediately you receiue the said A. B. and him safely keepe in your said Goale, vntill that he shall bee thence deliuered by due order of his Maiesties lawes. Hereof faile you not, as you will answere for your contempt at your owne perill. Yeouen at &c.

The diuision and discourse of Felonies.

The Examination of the prisoner, the bond of the accusors, & the notes of suspition, thus bewraied, It followeth ỹ I enter into ỹ diuision and discourse of the felonies themselues. For the better vnderstanding whereof, I will here deliuer (so shortly as I can) such helps as haue come to my hands, for the knowledge of all manner of Manslaughters, and other Felonies

nies that either were at the common Law, or haue beene since declared by whatsouer Statutes.

But before I step any further herein, I am to pray pardon of the Reader, if I shal neither set Mãslaughter before Felonie, as this statute doth: nor shall vse either of both those words in so narrow a signification, and meaning, as commonly other men do take them. For howsoeuer the course of these offences may fal out to him that shall consider how much the one of them exceedeth the other in grauitie & degrées of hainous offences: yet to me, that am desirous to follow some order, & methode of discourse, the generall must alwaies goe before the particular: and therefore, refusing the cõmon vse of the words at this day I wil (for order sake) take them in their own more ancient and proper significations, vsing Felonies, for ỹ *Genus* (or general) to all those other fell, & hainous offences, that our law (for the most part) doth punish by the paines of death: and vsing Manslaughter, as a sort of Felonie, that comprehẽdeth vnder it al maner of felonious Homicide whatsoeuer.

The right vse of the words, Manslaughter and Felony.

And yet, to proue ỹ I do not herein swarue, either from the naturall signification of the words themselues, or from the ancient vse and acceptation of them, I say, that first those hainous offences, are called Felonies, because they be committed *Felleo animo*, with a fell, furious

rious, and mischieuous minde and intent.

And, that before the Statute (13. R. 2. ca. 2.) a pardon of all felonies, was auaileable both for murders, and for some Treasons also: as may appeare, Lib. Ass. 22. plac. 49. 1. Edw. 3. 24. Stanford 102. *& Comment.* 502. And that the Statute of Marlebridge (cap. 25.) speaketh plainely herein, saying: *Locum habeat murdrum de interfectis per feloniam tantum.*

Againe, as touching Mãslaughter, that word (as euery man may see) doth most aptly, and doth significantly, render vnto vs, the Latine *Homicidium*: which word M. Bracton, and M. Stanford doe rightly vse, as the general, aswel to murder as to the rest: howsoeuer vnskilful men will needes restraine it (now a daies) to Man-slaughter by Chance-medley alone.

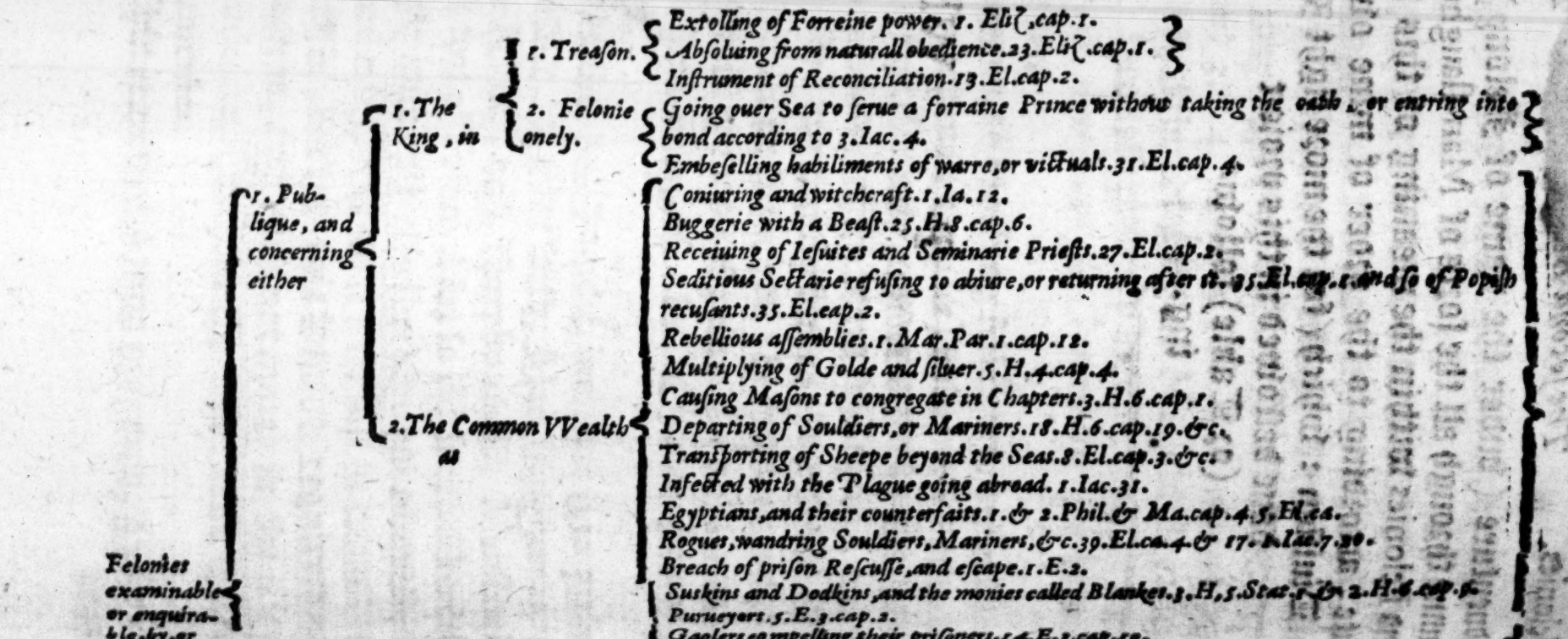
Neither doe I doubt, but that this present Statute, when he saith, Man-slaughter and other Felony, doth thereby make Manslaughter a sort of Felony, (for so the word other doth imply) and doth also therewithal comprehend Murder vnderneath it: seeing in cannot bee thought: but that this Statute requireth examination, as well (if not more) in the case of Murder, as it doth in the other lesse hatefull Homicides.

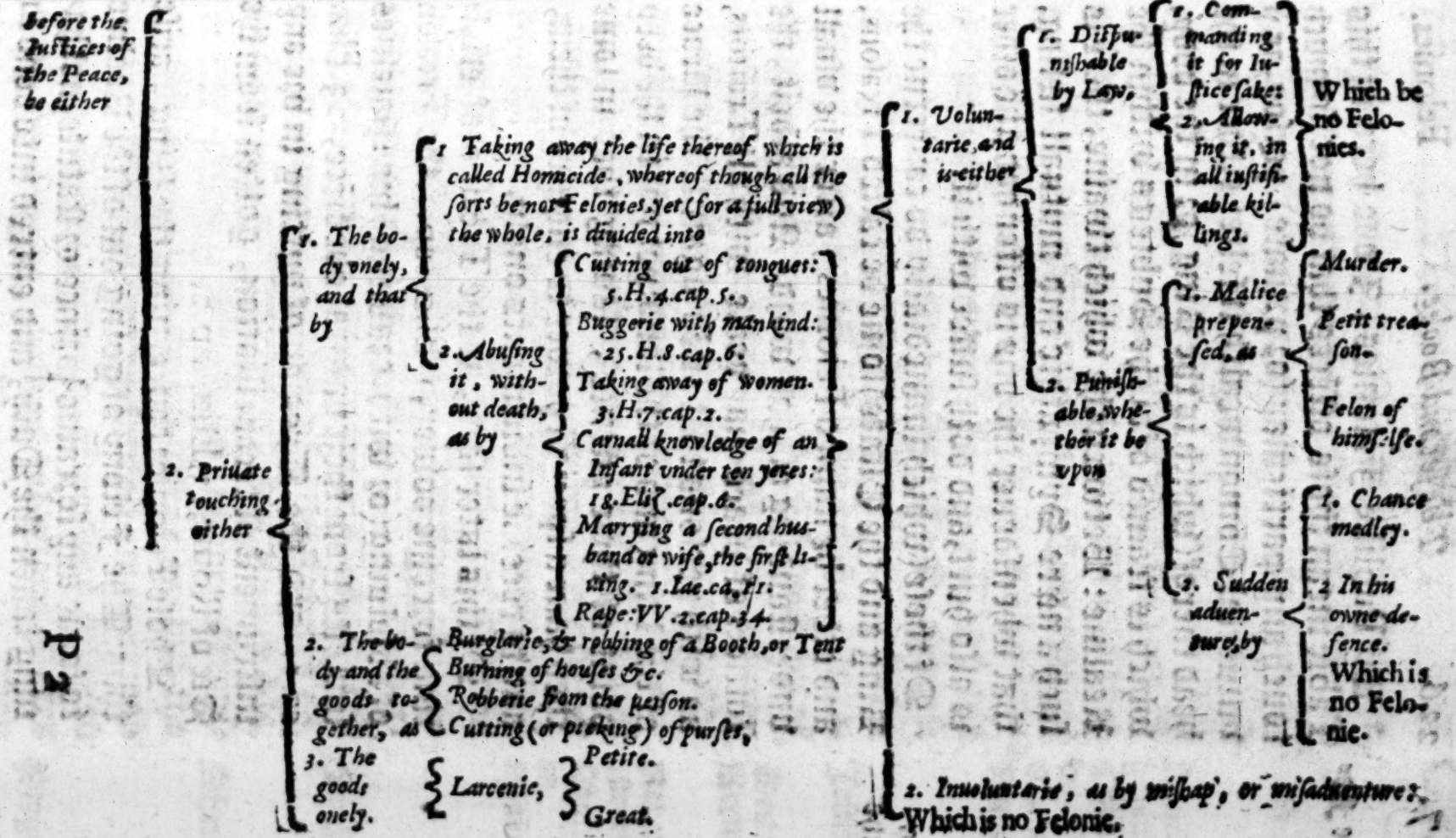
This examinatiõ thus prepared, I wil now

aduen-

aduenture (vnder the name of Felony) to runne through all the sorts of Man-slaughters and Felonies within the meaning of this statute, according to the order of mine owne Diuision: which (for the more light I haue bestowed in this present (or Table) following.

The Diuision of those *Felonies*, wherein *Iustices* of the Peace are authorized.




Before the Iustices of the Peace, be either
2. Priuate touching either
1. The body onely, and that by
1 Taking away the life thereof which is called Homicide, whereof though all the sorts be not Felonies, yet (for a full view) the whole, is diuided into
1. Voluntarie, and is either
1. Disp unishable by Law,
1. Commanding it for Iustice sake:
2. Allowing it, in all iustifiable killings.
Which be no Felonies.
2. Punishable, whether it be vpon
1. Malice prepensed, as
Murder.
Petit treason.
Felon of himselfe.
2. Sudden aduenture, by
1. Chance medley.
2 In his owne defence.
Which is no Felonie.
2. Inuoluntarie, as by mishap, or misaduenture: Which is no Felonie.
2. Abusing it, without death, as by
Cutting out of tongues: 5.H.4.cap.5.
Buggerie with mankind: 25.H.8.cap.6.
Taking away of women. 3.H.7.cap.2.
Carnall knowledge of an Infant vnder ten yeres: 18.Eliz.cap.6.
Marrying a second husband or wife, the first liuing. 1.Iac.ca.11.
Rape: VV.2.cap.34.
2. The body and the goods together, as
Burglarie, & robbing of a Booth, or Tent
Burning of houses &c.
Robberie from the person.
Cutting (or picking) of purses,
3. The goods onely.
Larcenie,
Petite.
Great.

Publicke Felonies.

By Publike Felonies, I doe here in this Table mean those offẽces that do not so much touch any particular (or priuate) person, as ỹ vniuersal Cõmonwealth it selfe: either in the head therof (which is the King) or in the body, which is framed of al the Subiects within the Realme: Betwéen the which twaine, there is such a néere Sympathie and mutuall féeling, that whensoeuer the one is offended, the other is also hurt, and doth suffer with it.

Felonies against the King.

Of these (which immediatly do concerne the King and the Estate) some be called Treasons, and other be named Felonies, after the vsuall vnderstanding of that word. And albeit, the Iustices of peace may deale with all Traitors, as with persons that offẽd against the Peace of the King and of the land: yet not in the very point of their offence, sauing that in some they haue a speciall power to enquire of them, and to receiue indictments onely.

Of this later sort, is the Treason of extolling forreine power, 1. Eliz cap. 1. the Treason of absoluing (or with-drawing) his Maiesties subiects from their natural obediẽce, 23. Eliz. ca. 1. and the Treason of putting in vre any instrument of reconciliation, gotten from the Sée of Rome, 13. Eliz. cap. 2.

Those Felonies concerning the King, arise thus: The Felony of going out of the Realme to serue any forraine Prince or Estate, not hauing taken the Oath, and entred into bond to his

his paiestie, according to 3. Iac. ca. 4. And the embeazelling of any his habiliments of warr, or of any Victuals prouided for his Souldiers, Mariners, Gunners, or Pioners, 31. Eliz. cap. 4.

Hitherto of Felonies concerning the head of the Common-wealth: now follow those that are against ỳ bodie of the same: Coniuration of wicked spirits & witchcrafts, against ỳ law of God and the Statute 1. Iac. c. 12. The sinne of Buggerie committed with a Beast, against God, Nature, and the Law, 25. H. 8. ca. 6. Receiuing of Iesuits, or Seminary priests, contrary to the statute 27. Eliz. cap. 2. The refusall of seditious Sectaries, and of Popish Recusants, to abiure the Realme, & their returne after abiuration made, against the statutes 35. Eli. c. 1 & 2. Rebellious assemblies against the Law, 1. Mar. Parl. 1. ca. 12. Practising in the Art of Multiplication of Gold or Siluer, condemned by the Act, 5. H. 4. ca. 4. The causing of Masons to congregate thẽselues in Chapiters, restrayned by a speciall Law, 3. H. 6. ca. 1. The departing of Souldiers, Mariners, or Gunners frõ their Captains, prohibited by the statutes 18. H. 6. ca. 19. 2. & 3. E. 6. ca. 2. 4. & 5. Phil. & Ma. ca. 3. & 5. Eli. ca. 5. The second offence of transporting shẽpe beyond the Seas against the Law, 8. Eliz. cap. 3. The wilfull going abroad & conuersing in company of persons infected with the Plague, hauing infectious Sores vpon

Felonies against the Common-wealth.
Coniuration.
Buggerie.
Iesuits.
Sectarie.
Recusant.
Rebellious assemblies.
Multiplication.
Masons.
Souldiers.
Sheepe.
Plague.

vpon them vncured, contrary to commaundemẽt prohibited by the statute 1. Iac. c. 31. The disguising life of the Ægyptians: the returning of a dangerous Rogue that was banished: and wandring of such a Rogue, after he hath bẽne branded with an hot Iron, & placed in labor: and the idle wãdring of Souldiers & Mariners, together with the forging of any Testimonial, or carrying ỹ same whẽ they know it to be forged, forbidden by the Acts 1. & 2. Phi. & Ma. c. 4. 5. Eli. cap. 20. 39. Eli. ca. 4. & 17. & 1. Iac. ca. 7. All these (I say) be Publicke Felonies, whereby the vniuersal Common-wealth doth (or may) receiue detrument, and for which hardly any one singular person can commence his priuate sute or action.

Egyptians. Rogues.

Souldiers. Mariners.

And of like condition to these, be those Felonies that do grow by the breaking of imprisonment for any Felony: the which also are growẽ ded chiefly bpõ the Statute of 1. E. 2. *De frangentibus prisonam*, and are so restrained to Felonie by it, whereas (at the common law) he was generally a Felon that brake the prison, although the cause were no Felonie for which he was committed thither.

Breach of prison.

For, Imprisonment is the putting of a person from his owne libertie, into the custodie of the Law, to answere to that which is obiected: and therefore to breake the prison, is to flie from the triall of the law, and is worthily adiudged a Publicke Felony.

But

Out of his owne fact, there groweth sometimes a treble offence and felony: namely, one in the prisoner himself, which is most properly called the breach of prison: another in him that helpeth the prisoner to get away which is commonly termed Rescusse: and a third, in y officer or partie whatsoever, by whose wilfull default he is suffered to go, and that is named an Escape 10. E. 4. 17. Rescusse.

The breach of prison, and Rescusse do many times concurre, and nowe then an escape doth appeare without the companie of any of them both.

Now, (as to this purpose) it is called a Breach of prison, whether it be an escape, out of the gaole, or out of the stockes, or out of the possession of any person that hath the keeping of the partie arrested for Felonie, although hee be not thereof indited before, Cor. Fitz. 158. Colect. Dier fol. 99. & 312: and so is it, if a man take the sancturie of the Church for a felonie, and doe then flie from it: for he is there in the custodie of the town, Cor. Fitz. 290. But if the Gaoler or any other that hath a Felon under arrest do willingly suffer him for to goe at large then resteth the felonie in them only, and not in the prisoner: who cannot be said to breake the prison, out of which he is freely dismissed. Stanford upon the case Cor. Fitz. 140. Escape.

On the other side, if a stranger doe either breake the prison, and let out one that is there

for felonie, or doe refuſe ſuch an one as is vn-
der arreſt for felonie, then is it felonie aſwell
in the ſtráger, as in the priſoner himſelfe, Co-
ron. Fitz. 48. 134. & 158. Howbeit, if that
ſtranger ſhall but offer diſturbance onely be-
fore the arreſt ſo that ỹ arreſt is hindred ther-
by, then will it proue no felony in him: becauſe
the other was no more a priſoner, then if hee
were attached only, and were not yet brought
vnder hand, Coron. Fitz. 333. & Stanford 31.
& lib. Aſſ. pl. 9. againſt the opinion of M. Fitz.
in his Iuſtice of Peace.

And for the ſame reaſon, if a man receiue a
Felon, knowing the Felonie, and then doe
willingly ſuffer him to eſcape, this ſufferance
to eſcape is no felonie of himſelfe, howſoeuer
the receiuing of him may make him an Acceſ-
ſorie, 9. H. 4. 1. & Stan. 33.

Neither is it Felonie for a man willingly to
ſuffer one to eſcape that is arreſted for an Act,
which was not then Felonie, but by matter cõ-
ſequent fell out ſo to be: As, if Iohn ſtrike Ri-
chard, for which the Conſtable arreſteth him,
and afterward letteth goe, and then Richard
dieth of the blow within the yéere, Comment.
401. 11. H. 4. 11. much leſſe, to ſuffer one to eſ-
cape, that is arreſted for killing of another *Se
defendendo*, or by miſfortune, or for petite Lar-
cenie, or that hath his indgement to be delive-
red, paying his fées: becauſe none of theſe doe
amount to Felonie.

But

But now, to pursue those Publike Felonies that doe yet remaine. Those Felonies of Gallyhalfe-pence, Suskins, and Dodkins, 3. H. 5. Stat. 1. and of Blank-monies 2. H. 6. cap. 9. whereof there is little (or none) vse at this day amongst vs, may stād in this Register of publike Felonies. And albeit the imbezelling of any Record, doth immediatly touch some one particular mans interest: yet knowing that when it is once a Record, euerie other man hath accesse vnto it, and may vse the helpe of it, I would reckon that offence (adiudged felonie by the statute 8. H. 6. cap. 12.) amongst the rest of publike Felonies, if the Iustices of Peace had to doe with it.

Money.

Records.

There may bee more doubt of the Felonies by Purueiors, abusing their office against the Statutes, 4. E. 3. cap. 3. 25. E. 3. ca. 5. 36. E. 3. cap. 4. 36. E. 3. cap. 5. and 6. & 7. R. 2. ca. 8. and likewise of those Gaolers that (by hard & cruel custodie compell their Prisoners to become Approuers, against the Act 14. E. 3. cap. 10. because in all these, some particular person is chiefly pinched: but yet forasmuch as they do it by colour of their offices (which are publik) I can be contented to range them amongst publike felons also.

Purueiors.

Gaolers.

From these Common and farre spreading offences, I must fal to those that I called Priuate, in respect that particular men are immediately (and almost onely) wronged by them, sauing

Priuate felonies, and their diuision.

saying that the Law doth take some auenge-
ment of the crime, lest impunity in the offen-
dors should embolden others to commit the
like.

These (as appeareth in the Table before)
doe either runne to the bodie alone, or to the
bodie and goods together, or else to the goods
onely.

Againe, seeing that the bodie is either tow-
ched in the point of life, or by other violent or
fleshly abuse that bringeth not death, I am
first, to intreat of Homicide, which I called
Homicide. Manslaughter, and therein to note some few
things that bee common thereto, and after-
wards to draw it into sundrie sorts, or kinds
also.

In all these sorts of voluntarie Manslaugh-
ter, being exempted from the fault of Felonie
(as that is, which we say to bee done *Se defen-
dendo*) there is no person to bee punished, to
whom the law hath denied a will, or minde to
doe the harme: As a mad man: he that is borne
both deafe, and dumbe: nor an Infant vnder
the age of 12. yeares, vnlesse it may by some e-
uident token appeare, that he had vnderstan-
ding of good and euil: for then, in him *Malitia
supplebit ætatẽ*: and to these (by the opinion of
M. Bracton) you may adde the Lunatike du-
ring that disease for a fourth, *quem tuetur* (as
he saith) *consilij inopia*, 3. H. 7. 1. 21. H. 7. 31. Co-
rone Fizh. 193. &. lib. Ass. 26. pl. 27.

More

Moreouer, to hurt a woman great with childe, whereby the child either dieth within her bodie, or shortly after that she is deliuered of it: or to strike any person, so, as he dieth not thereof, til the yeare and day be fully past: wil not wrap a man within the danger of these Felonious manslaughters: li. Ass. 3. pl. 2. 1. E. 3. 24. 3. H. 7. c. 1. & Coron Fit. 303. For in the former case, the child is not reckoned to be *in rerum natura*, vntil it be born, though M. Bracton fol. 121. taketh it to be Homicide, if the blow bée giuen *Postquam puerperium animatũ fuerit:* And in the later case, it cannot reasonably be alleaged, that the man died of that blow, which he receiued a whole yeare before.

Lastly, if any person shall be brought before a Iustice of Peace, and charged with any of these Homicides (except that which is done in the orderly execution of a iudgement) it shall be his part (as I thinke) to cõmit him to prison, or at the least (if the cause wil so suffer) to ioine with some other Iustice in the Bailemẽt of him: to the end, that the partie may be discharged by arraignement and triall: without the which (or other finding of the truth before the Coroner, or otherwise) I sée not how the Iustice of Peace may safely dismisse him. And for this purpose, I refer you to the Statute of Glouceſter ca. 9. and Corone Fitz. 288.

But now to the sorts of Homicide: Not euery Manslaughter (saith M. Bracton) deserueth

Homicide commanded by the Law.

ueth punishment: for it may be done for iustice sake, and then it is no fault at all, so it be done sincerely, and without delight in shedding of bloud.

And therefore, neither the Iudge that by order of iustice condemneth the guilty man to death: nor the officer that orderly executeth that iudgement according to his warrant: is guiltie of any offence for which vpon examination he ought to be committed to prison, Seeing they haue done no more then Law commaunded.

Homicide allowed by law.

Next vnto this, is the case of those whom law alloweth to slay a man, and holdeth them vnpunishable for it: whether it be vpon a certaine necessity for the aduancement of iustice, or for the defence of his house, or goods, or for the more terror against offendors. And therefore the Shirife, Bailife, or any other, that hath a warrãt to arrest a man indicted of Felonie, may iustifie the killing of him, if otherwise they cannot take him, 22. lib. Ass. pl. 55. and so may any other man, that followeth Felons vpon the Huy and Cry raised, if they will not yeeld themselues, but stand at defence or flie away: by the opinion of Thorpe tit. Corone Fitzh. 261. and so is it also, if a man that is arrested for Felony, do (as he is in carrying to the Gaole) offer resistance, and flie: for then those ỹ haue the conduction of him, may without blame kil, if they cãnot otherwise recouer him,

him, Corone Fitzh. 288. and 328.

And if the Iustice of Peace come to arrest Riotters, and they resist, whereby one of the Riotters is slaine by any of the Iustices, or their seruants, or by any other comming in their aide, that is iustifiable, & allowed by Law: because in this, and the former cases, the killing proceedeth vpon a necessity for ỹ execution of justich, which otherwise should be left vndone.

Of like account is it, when a Gaoler doth slay any of his vnruly prisoners that shall assault him, lib. Ass. 22. pl. 55. But whether this rule wil hold, when the arrest is only for debt, or such like, it is good to be aduised.

If the Iustice of the Peace, or any other (lawfully authorized) doe assemble any number of men for the suppressing of any persons vnlawfully assembled, contrarie to the statute (1. Mar. Par. 1. cap. 12.) and be driuen to set vpon them, and therby any of the offendors be slaine, this slaughter is warranted, both in the Iustices themselues, and for euery other of their companie, by the same Statute.

And if any Forrester, Parker, or Warrenner, or such as be in their cõpany for their aid (after Huy & Cry made vpõ offendors within their charge to yeeld thẽselues, which neuertheless wil make resistance, or flie) do without former malice kil any of thẽ, they are neither to be imprisoned, nor to forf. any thing for it, *Sta. de Malefactor in parcis*, 21. E. 1. So if any do attempt

attempt to robbe, or murder any person, in his dwelling house, or in (or nigh) any common high-way, cart-way, horse-way, or foote-way, or feloniously to breake into his dwelling house in the night time: and in this attempt the partie or his seruants then with him, doe kill any of the misdoers, he or they shal forfeit nothing thereby, 24.H.8.ca.5. and so (in effect) was the common Law before that Statute, as may appeare 26.lib.Ass.pla.32. and Corone Fitz.330. 305.& 261. and so also was the Romane Law of the twelue Tables: *Nocturnus fur quoquo modo, diurnus autem si se telo defenderit, impunè occiditur.* For of necessitie men must either defend themselues, or be oppressed by these and such other wrongfull inuasions.

And therefore, if there be malice betweene A. and B. so as they haue fought together: and afterward they meet sodainly in the high way, or in the street of a town or citie, & A. draweth his weapon, & challengeth B. to fight, B. saith that he will not haue to doe with him, and goeth to the wall from him, and thereof taketh witnesse of the standers by: and yet notwithstanding A. followeth, and striketh at B. and then B. striketh again, and killeth him: in this case, it was adiudged (15.El.Reg.) that B. shal goe quit by this Statute, without and forfeiture. Report Crompt. Wee come now to Manslaughter vpon premeditate malice, whether it be executed vpon others, or vpon the partie

selfe

selfe. That which is generally committed vpon any other, betweene whom and the seior there is no speciall ligeance (or soueraignty) is now called Muder, and the other petite Treason,

In the old time, euerie killing of one man by another, was (of the effect) called Murder, because death ensued of it. For (as Postellus noteth) of the Hebrew word *Moth*, came the Latine *Mors*, and therof our elders (the Saxons) called it Morð, and Morðor as we now sound it.

Afterward (about the time of M. Bracton) Muder was restrained to a secret killing onelie: & therefore he in the definition of Murder, saith, that it is *occulta occisio, &c.* with whom Britton agreeth also. But since the statute (14 E. 4. cap. 4 by which the presentment of Englisherie was taken away) Murder is taken in a middle degree, neither so largely as it first was, nor so narrowly as it afterward became to be. For Murder is now construed to bee, where one man of malice prepensed killeth another feloniously, that liueth within the Realm vnder the protection of the King, whether it be openly or priuily, and whether the partie slaine be English, or Alien. Wherein it is carefully to be obserued, that the words (of malice perpensed) doe make the true difference betweene this and the other voluntarie Manslaughters: so that to make the offence Murder, it is of necessitie,

cessitie, that there be a precedent malice, and the same either apparent, and betrated by the partie himselfe, or else implied & supplied by the understanding of the Law.

And therefore, if two persons do mutually beare malice one against the other, & meeting (by chance) they agree to goe into the field to fight together, and thereby the one of them is slaine, this is manifestly Murder in the other: Report Dalison.

So, if two (of malice forethought) lie in a waite the one to kill the other, and thereby the one of them doth kill the other, this is Murder in the killer, without respecting which of them gaue the first blow, by the oppion of Sir Robert Catlin late Chiefe Iustice, as Crompton reporteth.

And if a man of premeditate malice, striketh at an other, & after in the fight flieth to a wall (beyond which he cannot goe) the other pursueth him to the wall, and is there slaine by him that began the affray: this seeth to be Murder, notwithstanding his flying to the wal, by the opinion of Catlin chiefe Iustice, and others for he slew the man in the same malice, wherein he did assault him, Report Crompton.

And if Iohn and William do fight together (by agreemẽt) vpõ their former malice, & Iohn woundeth William: and afterward (they met againe vpon the sodaine, and falling to fight) William slaieth Iohn: that is murder in him,

by

by the opinion of Catlin Chiefe Iustice, as Crompton reporteth.

Now as this is meant, where the former malice is apparant: So, many times the Law doth (by the sequel) iudge of that malice which lurked before within the partie, and doth accordingly make imputation of it. And therefore, if one do (sodainly and without any outward shew of present quarrel or offence) draw his weapon, and therewithal kil another that standeth by him: the law iudgeth it to haue proceeded of former malice meditated within his own mind howsoeuer it be kept secret frō ỹ sight of other men, Dalison. And accordingly hath the statute 1. Iac. Reg. c. 8. well prouided, that the partie that stabbeth or thrusteth any person (not hauing a weapon drawn, or ỹ hath not then first stricken him) so as hee die thereof within 6. moneths after, shall suffer death as a wilfull murderer.

The ancient Law that measured the fault, not by the euent, but by the intent, will, and purpose of the offendor, tooke it for Felony (saith M. Stam. fol. 16. out of the booke 3. E. 3.) in ỹ owner of a beast ỹ killed a man, if so be ỹ the owner did know it to be accustomed to do harm, & did not tie it vp, or otherwise restrain it: but ỹ case (3. E. 3. which you may see *Co.* Fitz 311.) goeth not so farre (as I thinke) but only saith, that if ỹ owner were aliue, he should bee arraigned of the death, and amerced towardes

the king. Againe, Britton (fo. 14.) hath the case, that if one which is not a Physition or Surgeon, will take vpon him to cure a sicke or wounded man, which dieth vnder his hand, it is Felonie: and Thorpe (43. E. 3. 33.) saith that hee knew one to be indited accordingly: But the Statute (34. H. 8. cap. 8.) leaueth so great a libertie of such practise to vnskilful persõs, that it wil be hard now to make any felony in such a case. Howbeit if any of these two latter offences should be drawne to felonie, then I se not but that the same must be accounted Murder, in respect either of the bold presumption, or of the will to do harme, which doth amount to malice.

And it hath been adiudged Murder, when a man hath drawne his weopon, and killed either a knowne officer, or one that had and shewed sufficient warrant to arrest him for debt onely.

So if a harlot wil take the child wherof she is newly deliuered, and couer it with leaues, and let it lie abroad, wherby vermine destroyeth it: & so likewise, if the sonne wil take his sicke father against his will out of his house, & carrie him in the cold aire to another place, whereof he dieth. Fitz Enditement 3. or if the same officer will behead him that is adiudged to be hanged: or if a priuate man will kill him without any warrant, 35. H. 6. 58. & 27. lib. Ass. pl. 41. or if a Gaoler kill his prisoner by o-

uerhard

ouer-hard keeping, Britton. fol. 28.

Againe, it is taken for a rule (by M. Brooke 4. & 5. Phil. & Mar.) that whersoeuer a man goeth about an vnlawful act, as to beat a mã, or to disseise him of his lands, &c. & do (in that attempt) kill him, it is Murder: because the Law presupposeth that he carieth that malicious minde with him that he will atchieue his purpose though it be with the death of him against whom he is directed. And therefore if a thiefe doe kill a man whom he neuer saw before, and whom he intended to rob onely, it is murder in the iudgement of law, which implieth a former malitious disposition in him rather to kill the man, then not to haue his money from him, Coment. 474.

And if a man commaund his seruant to beat another man, which doth it in his presence, & the partie dieth thereof, it is murder in them both, *ibid.* 475.

It appeareth in M. Dalysons Report (4. & 5. Phil. & Mar.) that Precedent was shewed to the Iustices, that whereas a man entred into another mans Orchard of his owne head, and there toke Peares from a tree, and in the doing killed the owner that rebuked him, it was adiudged murder, and he was hanged for it. And of like sort is it, if Riotters, or such as be otherwise vnlawfully assembled, doe kil any of those that come in aide of the Sherife or Iustice of the Peace, for the repressing of the.

Furthermore, the law (not thus contented) doth many times extēd this murdring malice towards other persons then the offendor may seeme to bend it: yea, and to punish it in some that haue a shew to be very farre from it. And therefore, if a man (of his former malice against one) doe shoote at him, and thereby killeth another, with whom he was not offēded, yet is he a murderer, for the minde that he bare to murder him, against whom he drew his arrow, Comment. 474. So if two fight vpon premeditate malice, and the one of them slayeth the seruant of the other that fighteth in defence of his maister, he is guilty of Murder: and yet he had no former malice against the seruant, Comment. 101.

And if two fight vpon malice fore-thought, and in their fight a stranger is killed that laboureth to depart thē, it is Murder in him that killeth him, if it may be discerned: and if not, then in them both, *Coron.* Fitz. 262. & Dalison, & *Collect.* Dier. 228.

But (to goe further) the husband meaning to be rid of his wife, offereth her a poysoned apple to eate, & she (not seeing ẏ danger) giueth part therof to her little daughter ẏ stādeth by, in the presence of the husband, who (to auoid the suspition) suffereth her to eat thereof, and shee dieth: this was iudged Murder in the husband, for his wicked intent against his wife: and yet the case was, that he loued his daugh-

daughter dearely. Comment. 474. & Stat. 1. E. 6. cap. 12. by which all willfull killing by poisoning, is adiuged Murder of malice prepensed.

So if a man lie in waite by the way to kill A. and (mistaking the man) he killeth B. as he commeth the same way, this is Murder. *ibidem.*

Againe, all such as bee present, (and aiding, abetting, or comforting him that committeth a Murder) be principall Murderers in the eye of the Lawe, as well as he is by doing the deed, though they strike neuer a stroke therein: for the Lawe draweth the stroke of the murderer to be the stroke of them all that be present, and doe assist him, 4. H. 7. 18. & Comment. 100.

And therefore, if Hunters doe enter into a Parke, and doe agree to kill any man that shall resist them, and one of them (being out of the sight of his fellowes) doth runne vpon the Keeper, and killeth him: this will make all the rest of the Hunters to bee principall Murderers, as well as him that gaue the deadly blow, Dalison.

And (to giue one example of both these last Rules) the case was (4. & 5. Phil. and Mar.) that George (hauing cõceiued a displeasure against Richard) assembled sundry persons, and came in riotous sort to the house of Richard,

of purpose to fight with him, but not with the minde to kill any man: and vsing there some quarrellous speeches together, a kinswoman to them both trauelled indifferētly to appease them, and was suddenly stricken on the head with a stone that was throwne ouer a wal by one of the seruants of George, whereof she afterward died. And (by the opinion of al the Iustices, and others) it was declared, vpon long aduise, that if she came on ỹ part of Richard, and not as a stranger to the matter, then this killing of her was Murder in George and in all his complices: but if she came as a stranger, and indifferent to both the parties, yet by the better opinion it was thought to be Murder in George & all his companie, because they came with a malice against the person of Richard, & in the execution of that malice this death ensued. Report Dalyson: with which Sir Iames Dier in his Collections doth not altogether agrée.

Petite treason. Now followeth to speake of wilfull Manslaughter committed by treason which is a sort of Murder: and therefore, howsoeuer it exceed Murder in the grauity of the crime (as I said) yet in Method, and true order in handling, it must come after it, as being the lesse generall.

It is of two sorts, whereof the first is called high, in respect of the King which is the highest person: and thereof I shall not need to intreate further than I haue spoken alreadie.

The

The other is termed petite, in regard of the inferiority of the persons against whom it is committed: and they be either Ecclesiasticall or Lay: as is declared by the statute 27. E. 3. ca. 2. which is but an affirmation of the common Law.

So that if a Clarke doe maliciously kill his prelate (or superiour) to whom he oweth obedience: or a wife, her husband: or a seruant the master or mistresse (who haue a ciuill soueraignty ouer them:) this will be Petite treason, lib. Ass. 12. pl 30. & 22. pl. 49. Coron. Fitz. 383. 19. H. 6. 47. & 25. E. 3. cap. 2.

And albeit there be a natural obedience, due from the child to the parent, wherby it might seeme that the wilfull and malicious Murder of the parent by the hand of the child should as well be sorted in the range of petite treason as the rest: yet by the opinion of Bromley chiefe Iustice: and Portman 1. Mar. (as Dalyson reporteth) it is not petite treason for the son to kil his father or mother, vnlesse he take meat, drinke, and apparell (or wages) of them, and do their businesse for it, as a seruant.

I know that the imprinted booke at large, 21. E. 3. fol. 17. hath (*Mere*) shortly, and corruptlie written, for *Meistre*, which did, and may deceiue some Reader: but Fitzh. Coron. 447. and Statham also (which do abridge that case) haue it plainely *Meistre*, to take all doubt away from it.

But (to goe forward on our way) there is none other difference betweene the offence of Murder and petite Treason, but this onely, that Murder is more generall, and may be executed against euery stranger, whereas petite Treason is restrained to these narrow bounds of priuitie, that I haue set downe before vnto you.

And therefore if the wife and a stranger do ioine in killing, or poisoning the husband: or a seruant and a stranger in destroying the master or mistresse of that seruant: this is petite Treason in the wife and seruant, and Murder in the strangers. And (by the way) that wife may for the poysoning either be touched with petite Treason at the common Law, or with Murder by the new statute, 1.E.5.ca.12. Dalyson. But if the wife and seruant do conspire to kill the husband, appointing the time and place therefore, and the seruant doth execute the same accordingly in the absēce of the wife: then is it petite Treason in them both: whereas if it had bēen done by a stranger, she should only haue been accessarie to it, as to a Murder. Collect. Dier. fol. 332. pl. 254. & pl. 103.

Now therefore (to auoid all needlesse multiplication of particular cases) I may leaue you this one general and short Rule for the better vnderstanding of al the rest of petite Treasons: namely, that whatsoeuer act will proue Murder between strangers, ỹ same will also make

petite

petite Treaſon betwéene theſe foꝛnamed priuies. Onely I will adde this one caſe, which hath an extraoꝛdinarie relation therein: the ſeruant (being departed out of ſeruice) killed his late maſter, foꝛ the malice which hee had pꝛemeditated againſt him during ẏ time that he was his ſeruant: and this was taken to be petite Treaſon, lib. Aſſ. 33. pl. 7.

Foꝛ an end of malicious killing, we are come to him that killeth himſelf: & is therfoꝛe called *Felo de ſe*: foꝛ the law déemeth that he doth it *Felonicè*, & with a meditate hatred againſt his own life. And although this fault is neuer imputed (as I ſaid) to him that is not *cõpos mẽtis*, oꝛ (as we ſpake) *non ſanæ memoriæ, de die in diẽ*: yet if he haue *lucida interualla*, his death ſhall yéeld that foꝛfeiture which belõgeth to ẏ fault as M. Stanford gathereth by the booke, *Coron.* Fitzher. 324. And ſo it was accounted of him, that in a furious heate ſtriketh another to the ground, and withal dꝛaweth his dagger to kil him, but whileſt ẏ other that lieth on ẏ groũd dꝛaweth his weapon, & holdeth it befoꝛe him, he in haſt to kil ẏ other, falleth vpon ẏ weapõ and is ſlaine himſelfe: Foꝛ the booke 44. E. 3. 44.) adiudgeth that he is *Felo de ſe*, & that the other ſhal foꝛfeit nothing foꝛ it: But M. Stanford (fol. 16.) taketh it foꝛ Chancemedley, and that he (in a manner) killeth himſelfe. Felo de ſe.

¶ There do yet remaine two ſoꝛt of voluntary Homicide (but without pꝛeceding malice) the one Homicide, by Chancemedley.

one commonly called Manslaughter, but more properly Homicide by Chance medley: the other *Se defendendo*, that is, in his owne defence, the former is fitly named Chãcemedley, for that in it men are medled (or committed) together by meere chance, and vpon some vnlooked for occasiõ, without any former malice or euil mind in one, to offer hurt to the person of the other. And in this offence, our law doth remit somewhat of her seueritie against ỹ former faults: so that bearing (as it were) with the infirmitie of mans nature, it seemeth no lesse to allow of manhood heere, then to haue abhorred malice before. But I will exemplifie it by particular cases.

If the Master and his seruant fight against one, towards whom the master hath malice, & telleth not his seruant thereof, & in that fight the seruant killeth the other man: howsoeuer this be Murder in the Master, yet is it but Homicide by Chance medley in the seruant, Commentar. 101. for he could not come to execute the malice of his Master wherto he was not made priuie. So, if Richard and Robert fight together vpon premeditate malice, and a stranger (hauing no malice) doth sodenly take the part of Richard, whereby Robert is slaine: this is but Chance medley in the stranger, Commentar. 100.

And if two play at the bucklers together without former malice, and the one slaieth the other

ther, this is reputed to be done by Chance medley, if it be not before the King, and by his commaundement, or proclamation: and if it so be, then it is not punishable at all, as Iustice Fineux did hold, 11. H. 7. 23. But M. Brooke Coron 228. noteth, that the Iustices in the time of H. the 8. were of another opinion.

In some case, the killing of a man may ensue vpon the maintenance of an iniurious act, & yet shal be déemed but Manslaughter by Chãce medley, as thus: Robert entreth forcibly with his companie into the house of Richard, and putteth out the wife and familie of Richard, the next night after Richard commeth with a great companie weaponed to the house, to recouer his possession, and setteth an out-house thereof on fire: which when one espied that was in the principall house, he shot off a gun, & therwith killed one of them that came with Richard: now vpon this fact, Robert and his complices were arraigned of Homicide by Chance medley, 23. Eliz. Report Crompton: for it cãnot be takẽ to be a iustifiable killing, since the other side came not to rob, or kill, but to rescouer the possession of that which was in a forcible Riot takẽ from them: neither ought it to be construed Murder, when a man in the night season shooting at aduenture to kill him that setteth a part of his house on fire, not knowing whether it bée any man against whom he hath former malice: and least

of

of all can it be misaduenture, seeing hee that shot, had a purpose to hurt, or kill withall.

More plainly is it Manslaughter by chance-medley, where Henry was in possession of a house diuers yeeres together, & William (pretending title to that house) commeth thither with a stranger, and he shooteth an arrow at Henry that was in the house, whereupon Henry dischargeth a crossebow, & with an arrow thereof killeth the stranger: and so it was taken, 5. Elizabeth Report Crompton. For this was a sudden quarrel for the title to the house, without any vnlawfull act proceeding on either side.

If two fight vpon sudden offence, and without any precedent malice: and in the fight the one runneth away & the other goeth into the next house, & there catcheth a staffe, and pursueth and killeth him which fled: this was taken to bee but Manslaughter by Chancemedley, for the continuance of the fury, which was (at the first) without malice, and could not in so short time bee appeased 18. Elizab. Report Crompton.

So, if the one of them had broken his sword in that fight, and had runne home to his house (not beeing farre distant) and fetched another weapon, & had therwith killed ỹ other: & so, if two haue born malice mutually, & be recõciled together, & thẽ afterward they meet, & the one challẽgeth the other with words of misreport, where-

whereupon by agrément they go immediatly together out of the house into the field to fight, and there the one slaieth the other: for, these & such like haue béen taken to be manslaughters onely: vnlesse the respite and distance of time haue béen such, that (by reasonable coniecture) the heat of the first anger might in that meane while haue béene asswaged.

Richard and Robert fight together vpon former malice, and Richard woũdeth Robert, and so they depart for that time: afterward they méete vpon the sodaine and fight againe, and Richard killeth Robert: this (by the opinion of Catlin chiefe Iustice) séemeth to be by Chancemedly: for that the former malice of Richard shal be thought to be appeased, by the hurt that he first did to Robert: and on ỹ other side, if Robert had thẽ killed Richard, it should be taken to be murder, by the malice that Robert shall be thought to beare, for the hurt that he receiued, Report Crompton. Hitherto of the principall parties to the fight, now of others that happen to haue to doe therein.

If two fight by occasion of the euill words of a woman that is present, and the one killeth the other without any other malice: this is manslaughter by Chancemedley in the woman, aswell as in the slayer himselfe, *Coron.* Fitz. 331.

And if two fight vpon the sodaine without former displeasure, and a straunger commeth

to

to part them, and is slaine by the one of them: this is Manslaughter by Chance medley, Corone Fitzh. 180. So, if two fight vpon the sodaine without former malice, and the one of them breaketh his staffe: & a stander by which is not of their company lendeth his staffe vnto him, with which he killeth the other: this séemeth to be manslaughter by Chance medley in the stander by, Crompton.

Himicide, in his owne defence.

The last member of voluntarie Homicide, is where one man killeth an other in his own defence: and this is neither felony, or yet any iustifiable killing: but euen as the law of nature (as Cicero in his defēce of Milo said) doth allow vnto man, *Omnem honestam rationem expediendæ salutis*: So the lawes of men do sometime reach vnto him *gladium ad occidendum hominem*. And therefore, our Law also is a Sanctuarie for the life and lands of him that killeth an other in the necessitie of his owne defence, if he cannot otherwise escape with his life from him.

But he must know, that it is not all one to haue to doe with a thiefe, or murtherer, and with a loyal subiect. For albeit he may boldly defend himself, his goods, or his house against a murtherer, or thiefe, on euen hand (as it were) & without any shrinking from him: yet, if he be assailed by an other maner of man, he must flie so far as he may, and til he be letted by some wall, hedge, ditch, preese of people, or other

other impediment: that his neceſſitie of defẽce may be eſtéemed altogether great & ineuitable & yet ſhal he be committed till the time of his trial, and ſhall then loſe his goods, & ſeeke his pardon, for taking away the life of his fellow ſubiect, Stat. Glouceſt. cap. 9.

M. Stamford fo. 15. deſcribeth this manner of Manſlaughter by this example: A. ſtriketh at B. with his weapan and B. goeth from him ſo far as he may for ỹ ſafety of his life, ſo that he commeth to a ſtrait, beyond the which hee cannot flie: A. ſtill purſueth the aſſault, & then B. ſtriketh alſo, and killeth him, or holdeth out his weapon, whereupon A. runneth, and is ſlaine, this (ſaith he) is taken to be done, *Se defendendo*: whereas if B. had not ſo fled, but had ſtricken againe when A. ſtroke at him, & had therby killed A. it had bẽn Felony in him. But yet if A. had ſtriken at B. as before, & B. had ſtrikẽ at him diuers blowes alſo (without giuing him any deadly wound) and then B. had fled to the ſtrait, & being purſued ſtil by A. had then killed A. this would be deemed to be done by B. in his owne defence: becauſe (ſaith M. Stamford) it is ſufficient for B. that he fled to ỹ ſtrait before he had giuen to A. any deadly wound: and this he gathereth by the bookes li. Aſſ. 43. pl. 31. & Cor. Fitz. 284. 286. 287. 295. & 297. And it is not material in the firſt caſe, though there were former malice betweene A. & B. vnleſſe B. do lie in await for A. or do agrée with

with him vpon the place for fight, or doe strike the first stroke at A. in al which cases, ỹ flying of B. afterward to the strait, will not anaile, or helpe him at all.

So, if a man do assault one in his house vpõ a sodaine quarrel, & is thereby killed, this is taken to be done by the other in his owne defence, *Coron* Fitz. 304. for *ita fugias ne prætercasam*, as the Comicke, said: and our Law calleth a mans house his Castle, meaning that he may defend himselfe therein.

Homicide by misaduenture.

Hauing thus perused these kindes of Homicide ỹ are willingly (though not all alike wilfully) committed and done, we must come to that which happeneth cleane besides the will and purpose of him that doth it. And therefore according to the Law of God (which iudgeth him not worthy of death, that ignorantly killeth another, but protecteth him in the Cities of refuge) our Law saueth vnto such a one his life and lands, but yet taketh his goods, & giueth him a pardon of course, without any speciall suit to the Prince for it. So, that if a labourer doe worke with an Axe, and (in the fetching of his stroke) the head of the Axe happen to flie off from the helue, & do kil one that standeth by: or if a man do throw a stone at a bird, or shoote an arrow at a foule, or at a marke, (without euill intent) and another man is slaine vnawares thereby: or in the felling of a tree) he giueth loud warning, when the tree is ready

ready to fall, & yet it falleth vpon another man ỹ standeth, or passeth by: Or if a Tiler throweth downe the tiles from a house that he is to amend, & giueth warning therof, and another man commeth vnder, & is slaine with a stroke of a tile: Or if a schoolemaster doe inordinatly correct his scholler, and he dieth thereof. In al these, and the like cases, it is to be adiudged Manslaughter by misfortune: Statute Marlebridge cap. 25. 2. H. 4. 18. Coron Fitz. 302. 354 & 398. and Comment. 19.

But here the distinction (taken by M. Bracton, and alowed by M. Stamford) in this case of Misaduenture, is worthy recitall. *Distinguẽdum est* (saith he) *vtrum quis dederit operam rei licitæ an illicitæ: vt, si lapidem proiiciebat quis versus locum per quem homines consueuerunt transire: vel dum insequitur equum, vel bouem, & aliquis alius ab equo vel boue percussus fuerit: hic imputabit' ei. At si magister causa disciplinæ discipulũ verberauit vel si quis dum fœnum de curru deponebat, vel dum arborem incidebat, et adhibuit quam potuit diligẽtiam, scilicet, respiciendo & proclamando, neque id nimis tarde aut dimisse, sed tempore congruo & ita clamose vt alter fugere aut sibi præcauere potuisset, non imputabitur ei.*

Thus haue the Felonies appeared, that do kill the body: it is now time to speake of those that abuse the bodie, without destruction of it. And here first offereth it selfe ỹ felony, which (of set purpose, and prepensed malice) cutteth

Felonies touching the body but without the death thereof.

Cut out tongues. Put out eies. Buggerie. Taking away of wome.

out the tongues, or putteth out the eies of any of the Kings subiects, 5. H. 4. cap. 5. next the sinne of Buggerie that is committed with man against the order of mankind, 26. H. 8. cap. 16. after that, the taking of any maid, widdow, or wife, vnlawfully, against her will, that hath lands, or tenements, goods or chattels, or is heire apparant to her ancestor (except it be by such as shal claime her for their ward or bondwoman) declared to be felonie (by the statute 3. H. 7. ca. 2.) if he that tooke her, do afterward mary, or do defloure her: for so was that statut construed, 3. & 4. Ph. & M. Report Dalysons & by the same statute, they be principal felons ẏ do procure or abet the felony, or that (knowing thereof) do receiue ẏ same woman. Then followeth the felony of the carnall & vnlawful abuse of the body of any woman (or rather a woman child) being vnder the age of 10. yeres the which, for resolution of the doubt that M. Diet noteth (14. El. Reg.) was declared to be felony (by the statute 18. Eliz. cap. 6.) whether she consẽt, or no, since the law iudgeth her vnable to consent at her so tender age. Here likewise may haue place the marying of a second husband or wife, the first being aliue, made felonie by the statute 1. Iac. cap. 11.

Carnall knowledge of a childe vnder thage of 10. yeeres.

Maryng in the life of the first husband, &c.

Rape.

And lastly, commeth the rauishing of any woman against her wil, where she neither cõsented before, nor after: & the rauishing of her by force, though shee consented after: which

was

was ordained to be felony (by the Statute of Westminster the 2. cap. 14.) tenne yeares after such time as the imprisonment of two yeares laid vpon the offendor (by Westminster 1. cap. 14.) was not found sufficient to represse the fault: which manner of punishment also, M. Stanford thinketh to haue bene rather a mitigation, then any increase of those paines, that the elder lawes did lay vpon rauishment: and whereas that statute of Westminster 2. in the first branch therof, vseth the words thus: Rauish where she doth not assent, &c. and in the second branch thus: Rauisheth with force: I suppose that the word force is but declaratorie in that place, and set down to no other end but to signifie, that al rauishment is accompanied with force; and therewith agreeth the Etymologie of the word Rauishment it self, which is derined from the Latin *Rapere*, that is, to take, catch, or snatch, by force or violence.

But here, if the partie complaining to be rauished, shal therby conceiue a child, then Bricton taketh it to be no Rape at all: because her conceptiõ proueth her consent. So, if she were kept, & vsed by the rauisher, as his concubine, Master Bracton fol. 148. thinketh that he cannot be said to haue rauished her: yet, if she were an harlot to another man, ỹ rauisher shal not be excused therby (as it there seemeth) because she cõsẽted not to him: And howsoeuer ỹ wicked man force her, yet can it be no rape in

him, vnlesse that either he take carnall knowledge of her, or be present and ayding to another, that so forceth, and abuseth her, 11. H. 4. 13. and Stanford fol. 24. and 44.

Felonies touching the body & goods.

Thus farre we haue dealt with the body alone: now must we ioyne the body and ỹ house (or the goods) together: and within this measure, there fall two diuers faults, whereof the one is called Burglarie, and the other, Robberie: each of them the more hainous in the sight of Law, because not only the house is inuaded, and the goods sought for there, but also a great terrour, and dreadfull danger is often brought thereby to the body and person. And seeing that feare is most fearefull in the time of sleepe, when we least thinke of it, and can worst auoid the danger, let vs begin with the night theefe that committeth Burghlary.

Burghlarie, and the circumstances thereof.

Burghlary seemeth plainly to take the name of Burghlar: which is deriued of Bower (a chamber, or inner roome) and Laron (a theefe.) So, that Burghlary is the theft done by entry into a dwelling house. And Britt. (fol. 17.) describeth a Burghlar (whom his printed booke calleth a Burgessor) to be one, That feloniously in the time of peace breakes open Churches, or houses, or the walles (or gates) of Cities or Boroughs, in which he respected not the time of night.

But, as the Law is commonly taken in our time, there are foure speciall things that must

concurre

concurre to make this felonie: that is to say, the time, the place, the maner of the fact, and the end for which it is committed.

The time is not in the time of peace alone (which is noted of this ancient writer only to shew, that in the time of ciuile & intestine war such breaking of a house against Rebels is iustifiable enough) but in the time of peace, it must bée in the time of night also. For (as M. Stanford fol. 30. truely obserueth) the Indite-ments of Burghlary be alwaies of this form, *quod noctanter fregit*: & therwithal agréeth a re-port of 4. E. 6. in M. Brooke, Coron. 185.

But in this part, it shal be good to enquire, whether all that time, which is betwéene the sun setting and the sunne rising, shall bée ac-counted vnto the night for his purpose: or whether that time of light which is in the e-uening, betweene the Sunne setting & night, and likewise in the morning betweene the night and Sunne rysing (whereof the one is called *Aurora*, and the other *Crepusculum*, and the beginning of the one, and end of the other, is by Ptolome said to be when the Sunne is eighteene degrees vnder our Horizon) shall be taken from the night, and be added to the day.

For, as the booke Coron. Fitz. 293. taketh the euening (that is after the setting of the sunne, and before the departure of his light) to be a part of ỹ day, in respect of an amerciament to

be laid vpon a Towne for the escape of him that killed a man within that time: So the statute of Winchester (13. E. 1. speaking of the watch) saith, that it shal continue all the night from sunne setting, to sunne rising: by which words (as you see) it comprehēdeth both *Auroram* and *Crepusculum*, within the night.

The place. Concerning the place, it may either be publike as the Church for prayer, and the walles (or gates) of townes, (or cities) for defence: then you may number those acts amongst publike Felonies: or else it may be private, as a dwelling house, and then it seemeth to be no Burglary, vnlesse some person be at that time within it: because (as I said) the Law in this offence beholdeth the place and the person together.

But, although this offence be not committed in the very body of the dwelling house, but in a stable that is parcel thereof and nere vnto it, yet will it be taken for Burglarie, as master Brooke Coron. 180. doth write: and seeing like reason begetteth like Law, so must it be, if the offence be perpetrated in a barne of the house, or in any other out house that is so adioyning.

Each Colledge in the Vniuersitie, each Inne of the Court and Chancerie, and every other like place, that is distributed for the several lodgings of sundry particular persons, is but one entire dwelling house for this purpose,

So

So that if any chamber (or lodging) there, bee broken vp in the night season for the doing of a felonie, it will worke to Burghlarie, though no man bee then in it, if so bee that any person bee within any other part of the whole Colledge, Inne, or such other house. But if a man doe in the night season breake into anothers close, *ad ipsum interficiendum*, that is no Burghlarie, because it is not into any house, 13. H. 4. 8.

The manner of the Burglarie consisteth, partly in the breaking of the house, and partly in the entrie into the same. For, if a man breake the house to do a felony, and enter not, it will be no Burghlarie, Stanf. fol. 30. and Collections Dier, 99. But yet it seemeth by Shard. (lib. Ass. 27. pl. 38.) that he which is taken in the only attempt of a Burghlarie, shall be hanged for it, although he haue not put the thing throughly in vre. The manner.

And of the same opinion (as Crompton reporteth) was both sir Anthonie Browne, sir Edward Mountague, and sir Robert Brooke, late seuerall chiefe Iustices of the Common place: the first of them holding, that if one do but make an enterprise (by night) to enter into a house to robbe there: the nert, that if he shall but only turne a key, being on ỳ inner sid of ỳ lock of the dore: and the third, that if vpon an attempt of Burghlarie, they within the house, shall cast out their money for feare, and the at-

tempters take it away: that in euery of these cases, it is a full and complete Burglarie.

He also reporteth that Iustice Portman, 3. E. 6. did execute one for Burglarie, which was taken in the night, putting backe the leafe of a windowe with his dagger: and the like is to be thought of him that shall be taken drawing the latch of a doore, that is not otherwise fastened.

But admitting that those do amount vnto breaches, and entries in Law only: and that a breaking with an actuall entrie is requisite, in the case of Burglarie: Let vs cõsider, what other acts shal be taken for suffient breakings and entries.

If one doe breake the glasse windowe of a house by night, and then with a hooke draweth out any goods, or do breake a hole in the wal of any house by night, & shooteth in thereby with gunne or bow, at one that is within the house, to kill him, and yet misseth him: or doe in the night season come into the house, by the helpe of a key, to steale any goods ther: or do sodainlie come into the house by night (ỹ doore being open) whereby the owner flieth to his chamber for feare, crying for helpe, and shutteth the doore, and the offendor is taken in shooting at the chamber doore: in euerie of these cases also, it hath been taken to be Burglarie, Repor. Crumpton.

In like sort is it, if the good man of the house

(per-

(perceiuing that theeues are without) will open the dores, and goe out against them: and whilest hee is in hand with some of thē, one of their companie stepeth to the doore and stretching his hand ouer the threshold (but not setting his foot ouer it) discharged a dag against one of the seruants that standeth to defend the entrie, 26. Eliz. *idem.*

And albeit, the first entry into the house were lawful, or standing with the good liking of the owner: yet by matter subsequent it may become a breach and entrie that shall amount to Burglarie.

As, if theeues shall come into a Towne by night with Hue & Crie, pretending that they be robbed, and shal pray ẏ Constable to make search for the Felons, and whilest hee goeth with them into some mans house to search, ẏ theeues, bind and robbe both the Constable & the good man of the house: for in such a case, the entrie shal be deemed Felonious euen frō their first comming.

But if the case be so, that theeues doe enter into a house by night (with a minde to steale) thorow a hole in a wal that was brokē before or thorow a dooze then standing open, and doe then depart without doing any other harme, & be taken vpon pursuit: it is good to be enquired, whether such a maner of entrie wil make them Burghlers.

But if diuers come to doe a Burghlarie, and

and but one of them entreth and committeth it, the reſt of them ſtanding neere to the doore, or about other parts of the houſe, or a good ſpace off (as at a lanes end, or at ſome orchard gate, or field gate) to watch that no helpe ſhal come: yet it is Burglarie in al that company, 11. H. 4. 13. Hul.

The end. The laſt of theſe points that muſt meete in the making of a Burghlarie, is the end, & intent for which the offendor commeth: which of neceſſitie muſt be, either to kil, or robbe ſome perſon, or to doe ſome other Felonie, Lib. Aſſ. 22. pl. 95.

For if a man ſhould breake, & enter a houſe by night, of purpoſe only to beate a man, that is but Treſpaſſe, Stanf. 30. but if it bee to kill him, then it will be Burghlarie, although he do not ſo muſt as touch him, Cor. Fitz. 267. & 13. H. 4. 7. And ſo is it alſo, if the purpoſe be to rob, although he taketh alwaye nothing at all with him, Cor. Fitz. 185. 264. Lib. Aſſ. 22. pla. 39. But if the intẽt were to perpetrate a Rape (which was not felonie, at the common Law, as ſome haue thought) thẽ is there ſome doubt and queſtion made vpon it.

Robbing in a houſe, booth or tent. Thus much of Burghlarie: wherunto thoſe offences be ſomewhat neere that are ſet forth by the Statutes, 23. H. 8. cap. 1. & 5. E. 6. cap. 9. to this effect following, viz. If any perſon ſhall robbe another, in any part of his dwelling houſe, or place (the owner, or dweller, his wife, children,

children, or seruants beeing within the same, or within any place within the precinct of the same and being either sleeping, or waking) or shall rob any person in any Tent, or Booth, in any faire or market (the owner, his wife, childrē, or seruants, or seruant, beeing within the same, sleeping or waking) hee shall be a Felon. Betweene the which offences, and Burghlarie, the difference standeth thus: First, that these may be done by day, whereas Burghlarie is by night only: & then, that in these there must be a Robberie, or taking away of something, whereas in Burghlary the offence may be performed, though ỹ offendor take nothing away with him. And (by ỹ report of M. Dalyson) the statutes shalbe straitly construed, (in fauor of life) and according to the bare letter: so that, if the robberie be don by day, and there be in the house but one seruant only: or there be in the house, booth, or tent, but a strāger, or sojourner onely: the fact shall not be adiudged an offence against these statutes. To these commeth now to be added, the Felony of breaking of a house by day, and taking thence money, or goods, to the value of v. s. or more, in any part of any dwelling house, or outhouse (belonging, vsed to & w̄ any dwelling house) though no person shall be then therein, which offence (being formerly taken for a common Felonie: to which clergie was allowed) is now made equall to Burghlary, by the deniall of Clergie, & (in a point

point or twain) is more penal then Burghlarie it self was. For to ẏ Burghlarie it is required, that some person be in the house, which is not material here, and this may be committed in such an outhouse, as would not make vp that ancient Burglarie, 29. El cap. 15.

Burning of houses.

There is yet also one other Felonie concerning houses: For Master Bracton saith, that if one do burne a dwelling house maliciously, he shal die the death for it: and Britton fol. 16. describeth the maner, writing that he shall be burned for it: besides the which, Westminst. 1. cap. 12. forbidden Repleuin (or bailement) of such an offendor. And the burning of a house *Felonicè* (saith M. Brian 3. H. 7. 10.) was Felony at the common law.

So is it, to burne a barne (in the night) that is adioyning to a dwelling house, 11. H. 7. 1. Cur. or to burne a barne (in the day) that hath any corne (or graine) in it, although it do not so adioyne.

Now, if the wicked purpose of a man be, to burne the house of A. only, and yet by that fire the house of B. is burned also: then is the burning of this last house Felonie: because it followed of the fire that was maliciously kindled to burne the first, Comment. 474.

Robberie.

But to leaue the house, and to come to the goods that doe accompany the person, we must bewray the violēt Robber, so called, either by corruption of the latin *Raptor*, from which our

tongue

tongue will easily fal to robber: or els of robe, because he that after this forcible and feareful manner spoiled another, did vse to take his robes (or clothes) from him. After the which sence, and like Etimologie, the Grecians called such offendors λωποδυτας, and the Latines *Expilatores*: that is to say, Fleesers, or flawers of men. And in this kind of felonie, the law regardeth not so much the value of the thing robbed, as the feare that the robber bringeth with him to the person of him that is inuaded. So that if he take any thing at all, it will be robberie, though it be not worth so much as one penie: *Coron.* Fitz. 115. & 178. & li. Ass. 22. pl. 39. And hereof M. Bracton, & Iustinian do terme this offendor; *Furem improbum, & predonem, qui rem alienam rapit.*

So that Robberie is the felonious (or theeuish) taking of any mans goods from his person to his feare and against his will, to the end to steale them. And in this description, the word (taking) is largely extended against the offendour: in so much that it may proue robberie, though the owner may (in some case) rather seeme to haue deliuered the goods, then the theefe to haue taken the same from him: if so it proceed and be done by feare and menacing.

And therefore, if the theefe do assault a true man, and threaten him, that (if he wil not deliuer his purse) he wil kill him, by means wher-

of he deliuereth his purse vnto him with his owne hands: yet this is plaine Robberie, because he doth it for the feare wherewith the theefe hath striken him, Stanf. 27.

So, if the theefe do (without any expresse words of threatning) only assault a true man for his purse, who (fighting with him, & finding himselfe too weake) throweth downe his purse, and the theefe taketh it, 20. Eliz. Report Crompt.

So if theeues take a man, and compell him (by meanes of killing) to sweare vpon a booke to bring vnto them a certaine sum of money, or other goods: and therupon he goeth, & bringeth the same vnto them: this is adiudged Robberie 44. E. 3. 14. and yet he was once at liberty & out of their hands, so as he might seeme to be freed of all the feare wherein he stood by them: But yet, who seeth not, that the same feare that made him to take the oath, did still follow him euen to the performance of that which he had sworne and promised.

And so it is, if theeues assault me for my purse, and I (in the flight from them) drop it downe into a bush, vpon hope to haue it againe if I may escape them, and they espy it, & take it away with them: for had they not put me in feare, I would not so lightly haue throwen my money from me.

Neither is the word person so nicely to be construed in this description, that (to make by Rob-

Robberie) the goods must néeds be annexed (or fastened) to the bodie of the person. For M. Sta. (fo. 27.) reckoneth it to be Robbery, if one shall take my goods openly against my will, in my place wherein I am present, though the goods be not vpon my person at all: which séemeth to be good reason, seeing that in both cases, the losse is the same, and the feare is alike.

But now withall, some thing must (in some sort) be taken from the person: or else the fact will proue no robberie: for if a man do lie in awaite to robbe me, and (drawing his sword vpon me) he willeth me to deliuer my mony: and I likewise betake me to my weapon, and therby repel him and take him, either by fight or by Huy and Crie made after him: this will not be felonie at this day (saith M. Stanford agreeing in opinion with Kenney 9. E. 4. 26.) because he toke nothing from me: and yet in the old time (when the will and the act, were of like account in felonie, it was otherwise holden, as it may appeare, Lib. Ass. 27. pl. 38. & 25. Ed. 3. 42.)

Againe, a man may take some thing from the person of another without title to it, & by force, and to his feare also, and yet it may bee doubted, whether the act will amount to Robberie: as for example it happened (26. Elizab.) that one came to a Fisherman that trauelled by the high way with fish to sell: and praied to

haue

haue fish of him for money: the Fisherman refused to sell vnto him, and he (with force and feare) toke some of the fish, and gaue him money, to the value and aboue, for it, and of this case the Iustices of the Session thought good to be aduised, Report Crompton.

For an end of robberie, two theeues attempted to rob a true man, who fled from them, the one of the theeues followed him in chase, and the other espying another true man in ỹ same high way (but out of the sight of his fellow theefe) rid toward him, and robbed him: and then returned to his fellow, from whom the first true man had in the meane while escaped: this was adiudged robbery in both ỹ theeues, Report Crompton: and yet the one of them was neither within the sight of that robberie, nor assented to it: But because they both came to rob, and (at the same time) this fact was committed by the one, it is worthily to bee imputed to the other also.

Cutpurse. Amid and betweene the violent robber that taketh from the person by force: and the lurching theefe that stealeth when the person (or the alone) is absent, standeth the craftie Cutpurse, or Pikepurse, that taketh goods (or money) from the person by slaight onely, the owner neither being made afraide, nor witting of it.

This fact as it is no robberie, because it is void of assault, force, and feare: So neither is

it any Felonie vnto death, vnlesse the thing ta-
ken to be of more value then xij. d. in money.
Collect. in 2. Dier 224.

And in this kind of offence, it is thought ne-
cessary, that the Theefe haue an actuall posses-
sion of the thing, seuered from the person of
him from whom it is taken. So that, if the of-
fendor but a mans girdle, at which his purse
hangeth, and the purse falleth to the ground, &
hee bee destried before hee take any hold of it:
this will not make Felonie. But if he take the
purse in his hand, and then cut the girdle, and
afterward let them fall, that will proue him a
Felon, because he had a manuel possession of ỹ
purse remoued from the person. Crompton.
And now I am (by the course of mine owne or-
der, and diuision) drawne from the bodie, and
driuen to take in hand that Felonie that work-
eth vpon the goods alone.

Larceny.

This doth M. Stanford tal Larceny a name
fetched from the Latin *Latrocinium*, which lan-
guage would as soone haue known it to be her
owne, if wee had called it *Latrocinie*, but shee
must be contented to beare with our custom of
clipping whatsoeuer we doe borrow from her.
M. Bracton calleth it *furtum*, & Varro, saith ỹ *fur*
was deriued *à furuo*, (that is, darke) because
theeues do willingly worke be night, as hating
the light of the Sun that may bewray them.
But Gellius giueth him of error, and thinketh
that *fur* came of the olde Greeke word φωρ,

which

which signified a theefe (or a stealer) is named (as Iustinian writeth) of the word *fero*, which is both Greeke and Latine, and signifieth to carrie or beare away: which is the very end for which the theefe commeth.

M. Bracton defineth it thus: *furtum est contractio rei alienæ fraudulenta, animo furandi, invito domino.* Which definitiō is tollerable although M. Stanford do not like it. For Bracton meant thereby to describe all manner of theft, whether it were Robberie it selfe, or great or petite Larceny, euen as the Ciuilians doe vse to teach.

But because I haue taken another way in Felonies, I will (for mine owne purpose sake) describe Larceny to be a felonious and fraudulent taking of another mans personall good (remoued from the bodie, or person) without his will, to the end to steale them.

Petite Larceny.

And albeit petite Larceny be not punishable by death (as the greater Larceny is) yet be they both felonious and fraudulent takings, &c. for the inditement of petite Larcinie (saith Iudge Fitz. 27. H. 8. 22.) must be *Felonicè cepit*, and he shal forfeit his goods for such a felony. So that there is no difference either in the nature of the offence, or in the mind of the offendor, but onely lie in the value of ỹ thing that is taken, which also maketh the degrees of the punishment.

And therefore, if it be found by the Iurie that exceed xij. d. in value, he shall die for the fault

and (if it be of, or vnder that worth) he shal bee corrected by the discretion of the Iustices that may heare and determine it: West.1.cap.15. Brit.fol.21. Coron. Fitz. 404. & 406.

But here on the one side if a man commit diuers petite Larcenies, which (in al) do exceed the value of xij. ō. then may they be put together into one Enditement, and he shall suffer the paines of death therfore, Coron. Fitz. 415. and on the other side, if two or moe persons do ioyn in the stealing of goods that do surmount xij. ō. they all must die for the fault, ibid. 404. for (as saith M. Stanford) that felonie is seueral in Law, euen as those others were seuered in act, and deed.

But for the more cleere vnderstanding of Larcenies, I will first shew of what things Larcenie may bee committed: and then, after what manner, and with what mind, the same may be performed: for as touching the persōs that may be charged with that fault, they will be shortly comprehended.

It is Felonie therefore to steale any the moueable goods of any person: but because it may in some cases bee doubted, whether the things so taken are to be numbred amongst moueable goods, or no, I will proceed in particularitie.

Money, plate, apparrell, houshold stuffe, corne of any sort (or hay, or fruit) that is seuered frō the groūd, horses, mares, colts, oxen, kine,

kine, sheepe, lambs, swine, pigges, hens, geese, ducks, peacocks, turkies, and other beasts, & birds of domestical (or tame) nature, are such, as felonie may bee committed in the taking of them.

It may be Felonie also, to take some that be of a wild nature: as to take yong pigeons, or young hawkes out of their nests (or airies) before that they can flie. So, to take fishes that be kept in a trunk, stew, or pond, 10.Ed.4.15. 18.E.4.8. 4.Lib.Ass.22.pl.98. & 18.H.8.2. For, as a man hath a propertie in those first things, that bee domesticall, and therefore it is plainely theft to take them: So, in these later, he hath such a possession of them, that the one sort for weakenes, and the other for the restraint, cannot (without helpe) vse their nature, & forsake him: and therfore it is like iniurie to steale them also.

But otherwise it is of doues, or hawks, that can fly at libertie: & of fishes that liue abroad in riuers, or streames, because they are *nullius in bonis*, and therfore *occupanti conceduntur*. And yet, by statute law there is one exceptiõ: For if a man find a Falcon, Tarcelet, Lanor, Laneret, or other Falcon, that was lost, and doe not forthwith bring it to the Sherife, to be proclaimed, but doe steale, and carry away the same, it is declared to be felonie, 34.E.3. cap.22. & 37.E.3.ca.19.

But to goe forward: To take Phesants, Partridges,

Partridges, Hares, Conies, Herons, Swãs, or Weare, that are abroad: or to take dogs of any kind, Apes, Parats, singing birds, or such like, (though they be in the house) is no Felony, because these later be but for pleasure only, and are not of value: and those former be of wild nature, as those others are whereof I spake before. 18.H.2. And therefore Iustice Hales (7.E.6.) thought it no Felonie to take a diamond, ruby, or other such stone (not set in gold, or otherwise) because they bee not of price with all men, howsoeuer some doe hold them both deare and precious.

And here again, is some exceptiõ: for to take a tame déere is Felonie, if at the least the taker know it to be tame, 10.E.4.15. & Stat.25. And the Statute 1.H.7.cap.7. maketh it Felony to hunt déere, or conies (after some sort) in a forrest, parke, or warrein.

Furthermore, to take the flesh of any tame or wild foule or beast (that is dead) out of the possession of another man, is felony, Stanf.25. So to take the wooll from the sheepes backe, or to take the skinne, and leaue the body behind, wil be Felonie, Report Dalyson.

And now you must remember, that in the description I said, of another mans personall goods: for to take chattels reals, will not amoũt to felony, as to take ỹ charters of a mãs land, in or without a bor, or to take an infãt inward can be no Felony: because they be real,

and not personal chattels, 10.E.4.15. And yet the Statute (5.Eli.ca.14.) toucheth them in Felonie, that shall secondly offend in forging deeds concerning another mans lands, &c. by which they indeuour to steale (as it were) his inheritance from him.

Againe, to steale fruit that hangeth on the tree, or to cut downe and carry away the tree it selfe, or to take the lead from a house, or church, will not worke to any Felony, because these things be part of the freehold, till they be seuered, and cannot therefore be reputed for any chattels, Corone Fitz. 119. & 256. & Report Crompton.

But if I gather mine apples, or cut downe a tree of mine owne: then may another become a Felō by ỹ taking away of either of thē. Stā. 25

And (by the opinion of Mar.) if a man cut down a tree of mine this day without title, and fetch it away to morrow, that will proue him a Felon, because it was a chattel seuered when he toke it.

Moreouer, to take treasure that was hidde, or goods or cattell that be waiued, or wrecked, or straied, is no Felonie, Coron Fitzher. 187. & 265. and Stanf. 25. because it doth not yet appeare who is the owner of them, & the words of the description be, another mans goods: And it is not like, as where the goods may be said to be, *Bona capellæ, bona parochianorum, bona cuiusdam mortui ignoti*, or *Bona domus aut*

eccle-

ecclesiæ in the time of vacation: for in all these cases, these be *domini*, or owners of them to some purpose, Endic. Fitz. 15. yea if a man doe baile (or lend) his goods to another, and do afterward feloniously take them againe, this shall charge himselfe in Felonie: for albeit he were owner of them, yet had the other therein a speciall propertie also, by which hee might haue an appeale or action of trespas, against a stranger that should steale or take them, 7. H. 6. 43. And agreeably to this the Ciuilians doe adiuge it theft, if one (that layeth his goods to pledge) doe imbesell them from the partie to whom they were engaged.

So, (by the opinion of Marrow) if I. lend my plate to one that melteth it, and I take that mettal feloniously, it is felony in me, because the property is altered by altering of the fashion.

In what maner Larceny is committed.

Thus farre of the things that are subiect to this Felonie. Now let vs see what manner of act and demeanor is requisit to make the fault ful. Two things must cõcurre, namly, to take & to carrie away (or remoue) the thing taken with a purpose to steale the same. For the Enditement must alwaies be *cepit & asportauit*, or *cepit & abduxit*. And in either of these two, the letter and word is not so much to be regarded, as ỹ meaning & sense therof, for the more seuere & assured suppression of offendors. For as it is clérely felony, if a man take my goods

(with a mind to steale them) without any deliuery by thee: so it may proue felonie also, though hee came first vnto them by deliuerie from mine owne hand.

And therefore if a Mayner deliuer a goblet to one to drink his wine, & he carie the goblet away, it is Felony, because the Mayner gaue him no possession thereof, but the vse for the time onely, 13. E. 4. 10. So if I deliuer to a man certaine bales of Wade, or a tunne of Wine, to carry to Canterburie (giuing him money for the cariage thereof) and he carieth them to Yorke, & there breaketh vp the bales or tun, & conuerteth part of the Wade or Wine to his owne vse, it is felonie in him, *ibidem*.

But if I deliuer my goods to a man to keep, and he fraudulently consumeth them, or otherwise conuerteth them to his owne profit, it is no Felonie, *ibidem*: for that booke agreeth, if the other had conuerted all the Wine, or all the Wade (as he receiued them) to his owne vse, it had been no Felony by reason of the deliuerie: but here it may be truly said vnto him that neither the Wood nor Wine were deliuered to him in the plight whereto himselfe hath brought them, and so (vpon the matter) he had no deliuerie of them, but a bargaine to carrie them.

And if my Cooke, Butler, or horse-keeper, shall goe away with any of my vessell, plate, or horses, which they haue in their keeping,

it is felony, because they haue no deliuery: insomuch that whilst those things were in their hands within my house, the possession of them is continually remaining in my selfe, and not in them: But (3.H.7.12.) there is some strong opinion against it.

If I deliuer my goods to one to carrie to a place in London, and he carrieth them accordingly, and then conueieth them away, and selleth them, it will be Felony, because the priuitie of the deliuerie was determined so soone as he came to the place, Stamf.25. and then he hath no more a deliuery, then if I should giue to one the key of my chamber, and hee would therewith open the doore, and take the goods that are therein from me, Stamf.25.

A man may gather by Glanuile, that the ancient Law gaue no iudgement of Felonie against him that came to the possession of the goods by the hand of the owner: for he saith lib.10.cap.13. *Furtum non est, vbi initium habet suæ detentionis per dominum rei*: and thereupon grew those differences of opinions concerning goods in the charge of seruants: for y appeasing whereof (in some part) the Statutes (21.H.8.cap.7. and 5.Eliz.cap.10.) do declare it to be Felonie, if any seruant of the age of 18. yeares (other then an Apprentice, which also is to be vnderstood of him that is boũd by Indenture, by the name of an Apprentice) shall go away with, or conuert to his owne vse, any

money

money, iewels goods, or cattels of his Maſters, or Miſtreſſes, and of his or her deliuery to keep, of the value of xl. ſhillings, to the intent to ſteale the ſame.

But euen as to labor to take away al doubts in Law, is nothing elſe, but *Hidræ caput amputare*: So within fortie yéeres after that ſtatute (which was made for the reſolution and clearing of thoſe former doubts ſundry) queſtions did grow vpon the conſtruction of this Law it ſelfe.

Firſt, if a man deliuered an Obligation to his ſeruant to keepe, and he toke vp the mony due therby, and went away with it: and then, if a man deliuer to his ſeruãt wares to be ſold at a Faire (or Market) and hee ſelleth them there, and goeth away with the money: whether theſe offences be within that ſtatute, 21. H. 8. And it ſeemeth by the better opinion, that they are not: for in the firſt caſe the mony was not deliuered, but the Obligation: and then the ſeruãt ſtole not that which was deliuered, but an other thing, and that alſo a thing in action only and ſo of no value at all. And in the latter queſtion, the firſt part of the former reaſon holdeth alſo.

Howbeit, if the ſeruãt receiued 20. pounds in gold, which hee changed into ſiluer money, and then ran away with ý, his fault will riſe to Felony, becauſe that gold and ſiluer were both but money, though diuers mettals, Col-

ject. Dier fol. 5. and Report Crompt. 27. Eliz. And it seemeth by Dier there, that if one ser-uant do deliuer to his fellow seruãt, the goods of their Maister to keep, & he goeth away with them, this shal be Felony within the meaning of that Statute, because it shall be said to be the deliuerie of Maister himselfe.

Another Felonie there is also declared by the Statute (33. H. 6. cap. 1.) against the houshold seruants, that do take and spoile the goods of their deceased Maister: But that Felonie groweth vpon their default of apparance in the Kings Bench, after Proclamation, and therfore our Iustice of the peace cannot take knowledge of it.

The other point that (as I said) must concurre to make vp this Felonie, is the carying away, or remotion of the thing that was Feloniously taken. In which part also, it is not of necessitie, that it be cleane caried out of the place wher it was, but it sufficeth that it be so far remoued, or stirred, that the euil minde of the taker may plainly appeare. As if a guest wil take the sheets out of the chamber where he lodgeth, and then go towards the stable for his horse, w̃ a mind to steale the sheets, and is taken with them, this maketh his Felony ful, although he hath not caried them quite out of the house, lib. Ass. 27. pl. 39. And like law is it, if a man do take a horse in another mans close with felonious intent, and be deprehended in

the

the fault before that he haue led him out of the same close, Report Dalison.

What persons are chargeable in Larcenie.

Touching the persons that may be charged with Larceny, they shal best appeare by a Negation, or handling of those which cannot be charged with it. And for that purpose, if the husband and wife do commit a Larcenie together, it shall be imputed to the husband onely, Corone Fitz. 106. Neither is she chargeable if the husband compel her to commit ỹ Larceny alone, lib. Ass. 27. pla. 40. But if she doe it by his onely commandement, without other constraint, then M. Bracton affirmeth it to be Felonie in her, and M. Stamford doubted of it.

And the wife shall not be accompted a Felon for stealing of the goods of her owne husband: yea although an other (that knoweth it) take them of her, yet is hée no Felon for it, Corone Fitzh. 455. and Stamf. 27. But a wife may become a Felon by her own act, the husband not knowing therof: as if she steale an other mans goods, or receiue the théefe that stealeth them: and in such case if the husband know not thereof, or (knowing it) doe forthwith forsake his house, and her companie, he shall not be charged for her offence, Corone Fitz. 383. The Infant, the furious man, the lunatike, and the dumbe and deafe person, are chargeable in Larcenie, after the same sort as they be charged in Homicide before.

The principal Felons of al sorts being thus per-

perused, we are now to consider of their ac-
cessories, for they be felons also. It may plain-
ly be collected by Bracton, and by the statute
of Westminster 1. cap. 15. that in the ancient
time the Law took knowledge of three sorts
of accessories: some before the Felonie done,
as commaunders thereof: others at the verie
time of the felony, as those that (being presēt)
gaue force by aide thereunto: and others after
the felonie committed, as those which recei-
ued or comforted felons knowing of the of-
fences, that they had made.

Accessories to Felons by the common law.

And M. Stamford (fol. 71.) saith, that all
Abettors, consenters, and procurers be taken
to be within the reach and measure of Acces-
saries before the offence committed.

But, forasmuch as it is euident by many
bookes (and namely by 7. H. 4. 27. 11. H. 4. 13.
10. E. 4. 14. 21. E. 4. 71. and Corone Fitz. 309.
314. 350. 433. and others (that the Law is
otherwise taken at this day touching them of
the second sort, that be of societie with ỹ prin-
cipal, and be also presēt with him at the doing
of ỹ felony, (whether it be Murder, Robberie,
Burglarie or Larcenie) insomuch, as it adiud-
geth thē principals no lesse then him that doth
actually perpetrate and worke the offence (as
it may sufficiently appeare by ỹ which is said
before) I am eased of the labour to deale with
them, & shal not need to handle any other sorts
of accessaries, but those onely, that be either
before,

before, or after the time of the felonie done and committed.

Accessaries by statutes.

And here (at the first) I am fallen vpon a two fold question: the one, whether there may bee any accessaries to such Felonies as were not at the cõmon Law, but were afterwards created Felonies by Statutes, vnlesse ỹ same statutes do specially so appoint it: and if there may be such accessaries before the offence, yet then whether there may be any Accessaries to such a Felonie after the offence also.

And, albeit the first of those questions might haue receiued the more easie resolutiõ: for that all such as do will or procure any felonie to be done, are the verie cause therof, so as without them it is to be thought that it should not haue beene committed: yet they of the Parliament house haue (in the making of sundry new Felonies) thought it conuenient for the auoiding of al doubt, to comprehend in plaine speech the Accessaries, both before and after. For so you may see it don, by the seueral statutes, 1. Mar. cap. 12. made against Rebellious assemblies, 1. & 2. Ph. & M. cap. 4. against Ægyptians: and so of such others.

And this caused M. Stamford. (fol. 44.) to write that there could be none accessaries (after the offence) to the felonie of embezelling Records, declared by 8. H. 6. cap. 12. nor to the felonie of coniuration, set forth by the statute 33. H. 8. cap. 8. because those two statuts haue

no

no expresse mention, but onely of the Accessaries before the offence committed: And that there could be none Accessary at all, to the Felony of taking of maidens, widowes or wiues against their wils (enacted 3. H. 7. cap. 2.) because thereby, the procurers, abbettors, & receiuers are adiudged to be principall Felons.

But, for a more certaine rule in all these points I will vse this one case, that happened in the Kings Bench (3. & 4. Phil. & Mar.) as Iudge Dalyson reporteth it.

Two men (saith he) were indited vpon that statute (3. H. 7. cap. 2.) for the taking of a woman against her will feloniously: and two other men were thē also indited, for that (knowing the felonie) they did receiue, & comfort ỹ first said offendors. In this case, albeit ỹ statute doth make as well the procurors, and abbettors of the felonie, as also the receiuers of the woman (knowing the matter) to be principal Felons: and thereby these two persons, which receiued the felons onely, (and not the woman) can be deemed no principals: yet, all the Iudges of that court were then of the opinion, that these receiuers be accessaries to his felony, by the statute, no lesse then if it were to a felonie at the common Law. For, when a statute (say they) maketh a felonie, it is a felonie, and hath accessaries to it, euen in the same maner as if it had beene felonie at the cōmon Law. As in a Rape, which is declared by the

statute

statute (West.2. cap. 34.) saying, If a man ra-uish a woman, where shee assented not before, nor after, let him haue iudgement of life and member: yet, if an other (knowing of the fact) shall receiue the rauisher, he shalbe an accessarie, no lesse then if it were to a felony that had béene by the common Law.

Accessaries before the offence was done.

The ground of accessaries being thus leuelled by the line of this iudgement, I will worke euenly through it, and handle (vnder one) both the accessaries before, and after, aswell by the common Law, as by the Statutes.

Such therefore as shal either wil, comand, hire, procure, conspire, consent, or abbet, any Murder, Rape, Robberie, Burghlarie, or Larcenie to be done, and be not present at the doing thereof, are accessaries before the Felonie done, and thereby Felons when the felony is done.

And albeit, that the chiefe offendor doe not accomplish the fault altogether in y selfsame sort as it was before hand agreed, and plotted betweene him and the accessaries: yet, if any felonie fall out by that attempt, either against the same person, or against any other, then those that were so priuie thereunto shal be taken for accessaries vnto it. As if A. willeth B. to beate or rob C. and hee attempteth it, and thereby so beateth him that hee dieth thereof, now is A. an accessarie to the murder, Corone Fitz. 314. & Comment. 475.

So if a man command one to set fire on the house of A. and he so doth, and by kindling the same fire, the house of B. is wasted also: this commander is accessarie to the burning of the house of B. though he neuer meant that the fire should goe any further then to the house of A. onely, ibid. For, in either case, the latter euil was but a sequell of the former, which was commanded by him, and attempted by the other.

Againe, if a man hire one to poison another and he killeth him with a sword, or contrariwise killeth him with poison when hee was willed to slay him by sword: this procurer is an accessarie to the murder: Dalyson.

So also, if one procure a man to kil another in the field, and he killeth him in a house, or Church: or to kil him such a day, or at such an houre, and hee killeth him at another day or houre. For, their wicked purpose is effected as they agreed, though by an other meane (or circumstance) then was set downe betweene them. Comment. 475.

But if I command one to take A. and hee taketh and robbeth him. I am no accessarie to his offence: Stanf. 41. So, if one doe conspire with another, that the one of them shall burne the house of A. and he burneth the house of B. or that he shal steale the horse of A. and he stealeth his ore: or that he shal robbe A. in the high way, & he robbeth him burglarily in the night

season within his house: now is that other no accessarie to any of these felonies, for that they be either in other things, or of other kindes, then were intended, Commentar. 475. And (which is more strãge) if the husband conspire with any other to poyson the wife, and he for that end procureth and bringeth poyson to the husband, who tempereth it with an apple, and giueth it to his wife to eat, and she (thinking none euill) deliuereth a morsell thereof to her daughter there present, who also eateth it, and dieth of the poyson: yet is that other person no accessarie to this murder that the husband hath committed, because it is a distinct thing from that which he purposed: and (against him that is not the immediat murderer) the sequel of the fact shall not be drawne to charge him beyond that which was intended by him, Cõmentar. 476.

But now, in all these, and like cases of Accessaries before the fault, it is of necessity that the commander, hyrer, procurer, or conspirer, do continue that his mind and purpose, euen till the felonie be fully done and executed. And in this respect though it be no felony (as I said) to strike a woman with child, whereof the child dieth after it is borne: yet if a man shall maliciously procure a womã that goeth with child to destroy that child so soone as she shall be therof deliuered & she therupõ doth it: now is he an accessarie to this Murder: because he procure

procurement before the birth, continueth vntil it be executed by the Murder, which followeth the birth, Collection Dier 186.

But otherwise, if he shall repent him of his malicious mind, & therof giue notice to the other, & withall charge him ỹ he make no such attẽpt, & he doth nevertheless bring the same to effect, then is such cõmander or procurer no more Accessarie to the default, then if he had neuer imagined or thought vpon it. *Comment.* 476. Neither do I thinke, if a man foreknow of a felony (intended to be done) & do conceale it, & thereby suffer it to passe to be effected, ỹ he can be made an Accessarie thereby; vnlesse he haue also vttered some expresse consent, or giuen assured signe of his own allowance and liking of the same: but rather, ỹ such his concealement wil weight to a misprision (or contempt) for which he shall be fined: euen as if it happened him to be present at the doing of a felony (wherof he neither had knowledge, nor came therefore, nor gaue aide thereunto) and would neither disturb the felon, nor leuie Hue & Cry after him, Stam. 40. & *Coron.* Fitz. 395.

Accessaries after the offence.

Accessaries after the felonie, be those (which knowing of the felony) do feloniously, or with an euill mind, receiue, harbor, kanor, or otherwise comfort the felon, whether it bee in the same County in which the felony was don, or in any other.

For, if a man shall onely make sute by his

word (or writing) in the behalf, and for the deliuerance, of one whom he knoweth to be a felon, this is done of fauour, but yet not with such an euill intent, as that it shall make him an Accessary thereby, Lib. Ass. 26. pla. 47. But if a man do (vpon Hue & Crie) arrest a theefe that hath stollen the goods of another, and doe then (with an euill mind) take the goods, and so let the felon go, he is to be arraigned for it, as an accessarie to the felonie, if not as a principall felon: for so is the doubt moued, Lib. Ass. 27. pla. 62.

Againe, if a man pursue, and take a Felon that hath stollen his goods, and then taketh his goods, & suffereth the theefe to go at large, he is no accessarie thereby: for he may *agere ciuiliter*, or *criminaliter*, at his owne pleasure, as M. Bracton writeth: but if he take money of the theefe, to the end, that he shal not giue euidence against him, whereby the theefe escapeth, then he is become an Accessarie to the Felonie of his owne goods, by the opinion of Iudge Hales (6. E. 6.) because it is done with a mind to comfort the Felon in his euil doing, Report Dalyson.

To receiue, harbour, or relieue with money, a man that is bailed for felony, and bound to appeare for his triall, breedeth no danger of being an Accessary, because ye Law doth him that fauour, and the Felony cannot be concealed by it. Neither will it make a man accessary

to

to receiue (or buy) the goods, that he knoweth to be stollen, vnlesse he doe receiue the thiefe that stole them, 9.H.4.1.& Coron.Fitz.126.& 208.

And although the preamble of the statute (2.& 3.E.6.cap.24.) seemeth to cal him an accessary that receiueth the goods only: yet that must be vnderstood of him that receiueth the goods and the felon together. For it was not the purpose of the statute (as I thinke) to make any new accessary that was not before, but only to prouide triall (where it wanted) for those Accessaries that were before.

Accessarie to an Accessarie.

Furthermore, as one man may be accessary to a principall Felon: so may another man be accessarie to that accessarie also. For, if one do feloniously receiue or comfort him that is an accessary, he is fallen into equal danger with him: is called an Accessary to an Accessary, lib.Ass.26.pl.51.Coron.Fitz.196.

Againe, in the iudgement of an Accessarie, nature is not allowed her excuse: for (Coron. Fitz.427.) a felon fled to the house of his naturall brother, who shut the fore-dore against them that pursued the felon, and conueied him out of the house by a backe dore, whereby he got to the Church: and this brother was adiudged an accessary for it.

But yet such cõsideration hath the law of the duty of ỹ wife towards her husband, ỹ she shal not be deemed an accessary, though (knowing

him to haue committed a felony) shée doe both receiue, and comfort him, and also couer the fault that he hath done, Coron. Fitz. 383.

And in all cases of an after Accessarie, this one thing is generall and requisite, that the fact (to which he is an Accessary) be a felony at the very time in which he becommeth an Accessarie to it. For, if a man do giue a mortal wound to another vpon the first day of Auguſt, and a third person (knowing thereof) receiueth him two or three daies together, and letteth him goe, and then afterward he that was stricken, dieth of the wound within the yeare and day: yet this receit maketh the other none accessarie, because the principal fact was then no felonie, Report Dalyson.

One person charged as principall and Accessarie.

And if a man haue béene charged as a principall felon, and vpon triall be acquited thereof, yet may hée (if the speciall matter will so serue) hée an accessarie thereto after the offence, though not an accessarie before. Coron. Fitz. 200. & 463. For (as M. Bracton saith) those offences which make an accessarie before, bée so fast tied and knit to the principall fact (whereof they be very causes) that they cannot be seuered from it: whereas those others (which make an Accessarie after) do follow the fact alone, which also is in it selfe complete without them.

And to this opinion M. Stamford enclineth, fol. 105. But as he confesseth that the law was other-

otherwise taken in ancient time, and that the party might be charged as an accessary before the offence also, as it may appeare, Cor. Fitz. 424. So I finde, that the late opinion of all the Justices (1. and 2. Phil. and Marie) was agreeable to the same: because the principall fact is one offence, and the accessarie fact (whether before, or after) is another offence, and distinct from it: insomuch that although a pardon of all felonies, will not discharge a murder, yet it is auayleable for all the Accessaries thereto, be they Accessaries before or after, Report Dalyson.

Now, as all that which is hitherto spoken, is meant of accessaries to felons, that be not attainted: so is the same much more to be holden, concerning accessaries to felons ỹ be attainted, & of record. For to receiue an appuer (knowing him so to be) wil make a man accessarie to the felony that he hath confessed: and of like danger it is, wittingly to receiue him that is attainted of felonie, by way of vtlawrie: Cor. Fitz. 285. And in this later case, there is some opinion, that a man shal be an accessaris for receiuing a felon attainted (especially in ỹ same Countie) though he know not of the attainder at all, Coron. Fitz. 377. & Collect. Dier 355. for euery man (say they) is bound to take knowledge of a matter of Record, at the least in the same (though not in a forrein) county: but M. Brac. very reasonably requireth

him to haue committed a felony) shée doe both receiue, and comfort him, and also couer the fault that he hath done, Coron. Fitz. 383.

And in all cases of an after Accessarie, this one thing is generall and requisite, that the fact (to which he is an Accessary) be a felony at the very time in which he becommeth an Accessarie to it. For, if a man do giue a mortal wound to another vpon the first day of August, and a third person (knowing thereof) receiueth him two or three daies together, and letteth him goe, and then afterward he that was stricken, dieth of the wound within the yeare and day: yet this receit maketh the other none accessarie, because the principal fact was then no felonie, Report Dalyson.

One person charged as principall and Accessarie.

And if a man haue béene charged as a principall felon, and vpon triall be acquited thereof, yet may hée (if the speciall matter will so serue) hée an accessarie thereto after the offence, though not an accessarie before. Coron. Fitz. 200. & 463. For (as M. Bracton saith) those offences which make an accessarie before, bée so fast tied and knit to the principall fact (whereof they be very causes) that they cannot be seuered from it: whereas those others (which make an Accessarie after) do follow the fact alone, which also is in it selfe complete without them.

And to this opinion M. Stamford enclineth, fol. 105. But as he confesseth that the law was other-

otherwise taken in ancient time, and that the party might be charged as an accessary before the offence also, as it may appeare, Cor. Fitz. 424. So I finde, that the late opinion of all the Justices (1. and 2. Phil. and Marie) was agreeable to the same: because the principall fact is one offence, and the accessarie fact (whether before, or after) is another offence, and distinct from it: insomuch that although a pardon of all felonies, will not discharge a murder, yet it is auayleable for all the Accessaries thereto, be they Accessaries before or after, Report Dalyson.

Now, as all that which is hitherto spoken, is meant of accessaries to felons, that be not attainted: so is the same much more to be holden, concerning accessaries to felons ỹ be attainted, & of record. For to receiue an appuer (knowing him so to be) wil make a man accessarie to the felony that he hath confessed: and of like danger it is, wittingly to receiue him that is attainted of felonie, by way of vtlawrie: Cor. Fitz. 285. And in this later case, there is some opinion, that a man shal be an accessaris for receiuing a felon attainted (especially in ỹ same Countie) though he know not of the attainder at all, Coron. Fitz. 377. & Collect. Dier 355. for euery man (say they) is bound to take knowledge of a matter of Record, at the least in the same (though not in a forrein) county: but M. Brac. very reasonably requireth

aright and direct knowledge in the parties, to make them accessary, as well in the one case as in the other: for albeit a record (and especially the pronunciation of an vtlarie) be so notorious, that euery man may easily come to know the same: yet, were it an ouer great extremity, that each man should (vpon the perill of his owne life) enforme himselfe, and take vnderstanding of it.

I haue now (as you see) gone ouer this large field of principals, and accessaries, in all these sundrie sorts of felonies: so much ẏ more slowlie in pace, as I haue laboured to carrie the reader in company with me, & that also the rather because it is a point of great weight, frequent in vse, and fit for euery Iustice of the Peace to heare, and vnderstand.

What things some one Iustice may doe.

Now, as I haue passed through the power of any one Iustice: So I am ẏ prosecute, by way of short note, ẏ power of some one Iustice of ẏ peace, and so conclude this second booke.

Stocke of the shire for the poore.

The assesse, made at the Easter Sessions of the peace vpon euery parish in the county shal yearely in default of the Parishioners (and in default of the Churchwardens & Constables there) be rated by order of such Iustice of peace as shall dwell in that parish, or (if none so bee dwelling) in ẏ parts next adioining: And in default of the said Churchwardens & Constables any Iustice of peace within the limit, may leuie the same by distresse and sale of goods

of

of any person refusing or neglecting to pay his portion thereof, and shall render to the partie the ouerplus of such sale, & in default of such distresse, any Iustice of that limit may cõmit to prison such person without baile till he pay the same 43. Eliz. ca. 2. 1. Iac. cap. 25.

The like order is taken concerning the assesse made for Souldiers and Mariners. 43. Eliz. cap. 3. 1. Iac. ca. 25. Stocke for Soldiers.

Any one of those two Iustices of peace, which (by this statute) may appoint ouerseers for the poore may also send to the house of Correction such as will not imploy themselues in worke, according to this Statute, 43. Eliz. cap. 2. 1. Iac. cap. 25.

The *Custos Rotulorum*, or the eldest of the *Quorum* in his absence, ought (at the general Sessions after S. Michael) to appoint two Iustices of ỹ peace (the one being of the *Quorũ*) to haue the ouersight, and controlement of the Sherifes entring of plaints & amercements. And one of those Iustices may examine, and (without further enquirie) conuict the gatherers of the same amercements, if they gather any more mony then is cõtained in their lawfull Estreits, 11. H. 7. ca. 15. Sherifes.

Popish Recusants indicted or conuicted, and other persõs which haue not repaired to some vsuall Church or Chappel, and there heard diuine seruice by the space of three moneths last past, dwelling or which shall dwell, in any coun- Recusants.

county within ten Miles of the Citie of London, shal repart from thence according to this Statute, and deliuer vp his or her name to the next Iustice of peace in the same Countie, vpon paine of forfeiture of an 100.l. 3. Iac. ca. 5.

Confined Recusants.

Any one of the 4. Iustices of peace (which by this statute) may licence a confined recusant to trauell, may minister the Oath, to be taken by such Recusant, that hee hath truely informed them of the cause of his iourney, and that hee shall not make any causeless staies, 3. Iac. cap. 5.

Crossebowes & handguns.

Euery person finding or seeing any to offend the statute made against ỹ shooting in Crossebowes and Handguns, may arrest and bring, or conuey him to the next Iustice of the Peace of the County, where hee was found offending, who (vpon due examination and proofe thereof before him made) may by his discretiõ commit him to the Gaole, there to remains til he shall truly pay the one moitie of the forfeiture of this statute to the King, and the other moitie to such first bringer or conueier, 33. H. 8. cap. 6.

In this, and such other cases the Iustice of peace, hauing (as it seemeth) the whole matter committed to himself alone, ought to be wary and circumspect, lest either he rashly cõdemne the guiltesse, or negligently suffer the guiltie to escape: and vpon the offence sufficiently proued, it is necessarie that in his *Mittimus* (or

Precept

Precept to the Gaoler) there be contained the names of the parties, with the maner of the offence, and how long time he is to be kept in prison for it.

Furthermore, he is to make a Record of the matter, and to send the Estreat of it into the Eschequer, whereby the Barons may (vpon intelligence thereof) cause the Kings dutie to be leuied to his vse. And although the form of ẏ *Mittimus*, might be easily fashioned by some other Presidents in this Booke, yet for ẏ more readie helpe of the Iustice in this, & towards other like, I will not sticke to leaue him, a paterne both of that, & of the Record it selfe also.

To the Keeper of his Maiesties Gaole at *Maidstone*, in the said Countie, and to his Deputie or Deputies there, and to euery of them.

FOrasmuch as this present day, A. B. & C. D. of Halling in the said Countie Yeomen, did arrest and bring before me at Halling aforesaid, one I. at S. of Friendsbury in the said Countie Mariner, whom they had seene and found the same day (as they said) shooting in a handgun, charged with powder, and a pellet, at a Conie in a certaine place in Cucstone, within the said County called the Churchfield, contrary to the Law of this Realme, and thereupon praied me *Kent.*

that

that Iuſtice might be done in that behalfe.

I Iohn Leuiſon Knight, being the next Iuſtice of the Peace in the ſaid county to the place aforeſaid, did then at Halling aforeſaid vpon the ſaid requeſt take the examination of the ſaid I. at S. & did alſo thē, & there heare the proofes of them the ſaid A.B. & C.D. touching the ſaid offence: and for that it did then manifeſtly appeare vnto me, aſwel by the teſtimonies of them the ſaid A.B. and C.D. as alſo by the plain confeſſion of him the ſaid I. at S. that he had not thē lands, tenements, fees, annuities, or offices to the cleere yerely value of 100. li. & that he had ſhot in the ſaid handgun in maner and forme as is aforeſaid: I do ſend vnto you herewith the body of him the ſaid I. at S. as lawfully conuicted of the ſaid offence before me: requiring you in his Maieſties name, to receiue him into your ſaid gaole, and him there ſafely to keepe as his Maieſties priſoner, vntill that he ſhall haue truely paid the paine and forfeiture of x. li. of lawfull money of England laid vpon him for his ſaid offence, by the ſtatute thereof made in the 33. yeare of the Raigne of the late King Henry the eight, that is to ſay, the one moitie thereof to our ſaid ſoueraigne Lord, & the other moity to thē the ſaid A.B. and C.D. the firſt bringers of him before me. And this ſhal be your ſufficient warrant in this behalfe. Hereof faile you not, as you will anſwere for your contempt at your owne perill. Yeouen at Halling aforeſaid, the xx. day

of

of March in the 2. yeare of the raigne of our said Soueraigne Lord *Iames* by the grace of God, King of England, Scotland, France, and Ireland, defender of the faith &c.

By me the said
I. Leueſon.

Kanc.

Memorandum quod xx. die Martij, anno regni Domini noſtri Iacobi, Dei gratia, &c. Ang. Scotiæ, Franciæ & Hyb. Reg. fidei defenſoris, &c. A.B. & C.D. de Halling, in comitatu prædicto, Yeomen, *quendam I* at *S. de Friensburie in dicto comitatu Mariner inuenerunt, & viderunt apud Cucſtone in com. prædicto, die et anno ſupradict. cũ quodam tormento (Anglicè vocat.* a Hangdun) *onerato puluere tormentario & globo plumbeo (anglicè* charged with gunpowder and a leaden bullet) *in quendam cuniculum adtunc exiſtentem in quodam loco ibidem vocato* Churchfield, *ſagittantem & exonerantem dictum tormentum, contra formam ſtatuti (in Parliament. Dom. H. nuper regis Angliæ octaui, apud Weſtminſter, anno regni ſui 3[illegible]. ent.) prouiſi ac editi: Ac pro inde die & anno ſupradict. præfat. I.* at *S. arreſtauerunt, & apud Halling præd. coram me* I. Leueſon *milite, (vno, & dicto loco proximo Iuſticiariorum, dict. dom. reg. ad pacem in dicto com. conſeruandam, necnon ad diuerſas tranſgreſſ. & alia malefacta in eodem comitatu perpetrata audiendum & terminandum aſſignatorum) adtunc vnà ſecum adduxerunt, petentes*

potentes inde institiam fieri. Qua quidem petitione audita, Ego præfatus Ioh. Leueſon, apud Halling prædict', die & anno ſupradictis, debite ſuperinde examinaui præfatum I. at *S. ac probationes prædict' A.B. & C.D. in hac parte cepi: Ac propterea quod tam per probationes prædictas, quàm per confeſſionem ipſius I.* at *S. adtunc & ibidem apparuit mihi manifeſtè quòd præfat' I.* at *S. (cum non haberet in iure ſuo proprio, nec in iure vxoris ſuæ, ad vſum ſuũ proprium, nec aliqui alij ad vſum eiuſdẽ I.* at *S. haberent, terras, tenementa, feoda, annuitates, aut Officia, ad clarũ annuũ valorẽ centum librarũ) in tormento prædicto modo & forma prædictis ſagittaſſe contra formã ſtatuti prædicti, Ego præfat. Iohẽs Leneſon prænominatũ I.* at *S. die & anno ſupradictis proximæ gaolæ dict' dom. Reg. apud* Maidſton *in Comitatu prædicto de tranſgreſſione prædict' coram me conuictũ commiſs, ibidem moraturum quouſque pœnam & forisfacturam decem librarũ legalis monetæ Angliæ verè ſolueret, viz. vnam medietatem inde dicto domino Regi, & alteram medietatẽ inde dictis A.B. & C.D. primis eiuſdem I.* at *S. coram me ductoribus. In quorum omnium fidem & teſtimonium. Ego præfatus Ioh. Leueſon, hijs præſentibus ſigillum meum appoſui. Datum apud Halling prædict' die & anno primùm ſupradictis.*

Per me præfatum
Ioh Leueſon.

Hangun and Crollebow.

And euery perſon (other then ſuch as are ſo authorized by the yéerely value of one hundred pounds,

pounds, as is afoꝛeſaid) ought if he be licẽced to ſhoot in Croſſebow oꝛ handgunne, and doe inhabite in the Countrie, to pꝛeſent his name to ẏ next Iuſtice of peace adioining. And theꝛupon the Iuſtice ought to pꝛeſent & recoꝛd the ſame beſoꝛe the Iuſtices of the peace at ẏ next Quarter ſeſſions, 2. E. 6. cap. 14. But learne of others, whether this part is to haue continuance ſtill, or else did onely extend to ſuch perſons as had licence at that time.

Highwaies.

The Supeꝛuiſoꝛs foꝛ amendment of Highwaies, ought within one Moneth next after any offence done by any, againſt the Acts, 2. & 3. Ph. & Mar. c. 8. & 5. El. ca. 13. to pꝛeſent that offence to the next Iuſtice of peace: and theꝛeupon he ought to certifie the ſame at the next generall Seſſions within the ſame Countie, 5. Eliz. cap. 13. & 27. Eliz. cap. 11.

Highwaies.

The Occupioꝛ of any Iron woꝛke, foꝛ euery Load of Cole, oꝛ Myne, & alſo foꝛ euery Tun of Iron, that he ſhall cauſe to be carried in any yeeꝛe (between the 12. of October, & the firſt of May) by the ſpace of one mile in the high wayes within the wealds of Suſſex, Kent, oꝛ Surrey, ſhall foꝛ euerie thꝛee ſuch loads, & alſo foꝛ euerie ſuch Tun pay to the Iuſtice of peace dwelling neeꝛe to the places in that Countie where the high-waies ſhall be moſt annoied, oꝛ to his aſſignes, thꝛee ſhillings in money: the ſame (in default of ſuch paiment, to be leꝛied by diſtreſſe by ſuch Iuſtice, oꝛ his Aſſigne

of

of any the goods of the partie.

And such occupiour for euerie 30. loades of cole and mine, or of either of them, & for euerie ten tunnes of Iron, caried in the said highwaies, betweéne the 1. of May, and 12. of October, in any yeere, shall lay one loade of synder, grauel, stone, or chalke in places to be appointed by such Iustice, or else shall pay within eight daies after demand, at euerie such Iron worke, iij. s. for euerie such load, to the hands of such Iustice, who vpon default of paiment, shall leuie the same by distresse: the same moneis to be likewise bestowed by such Iustice vpon ỹ same highwaies, at his discretion And such Iustice may yerely (within 40. daies next after May day) assigne the places for bestowing the said Sinder, Grauell, Stone, Chalke, or moneies therefore, 39. Eliz. c. 19.

Disabled souldiers.

In default of the Parishioners & Churchwardens, that shall not tare the Parishioners towards the relefe of disabled souldiers, any Iustice of the peace dwelling in that Parish, or (if none dwel there) in the parts nert adioyning, may assesse the same: and may also (in default of the Churchwardens & Constable) leuie the same by distresse to be sold, 43. Eli. c. 31. Iac. c. 25.

Hedgebreakers.

The Iustice of Peace where the hedge or pale breaker, cutter of corne or wood, robber of Orchard or Garden, & such like is apprehended, or the offence is committed, may vpon

testimo-

testimonie of one sufficient witnesse vpon oath, cause the Offendor to pay dammages, or to be whipped by the Constable, 43. Eliz. cap. 7.

Seafaring men.

The Iustice of peace, of, or neere the place, where the Sea-faring man (suffering Shipwracke, & not hauing to releeue himselfe homwards) doth land, may giue him a Testimoniall vnder his hand containing the time & place of his landing, with the place of his birth or dwelling, to which he is to passe, and with a conuenient time for his passage thither. By which he may accordingly passe in the vsual & direct waies thither, and aske and take reliefe 39. Eliz. c. 4. 1. Iac. c. 25.

Souldiers and Mariners to beg.

The Iustice of peace, in, or neere the place where any idle and wandring Souldier or Mariner (comming from his Captain from ỹ seas or frõ beyond) doth land, ought (vpon request) to giue him a Testimoniall vnder his hand, expressing therein the time and place of such his landing, with ỹ place of his dwelling or birth, to which he is to passe, and with a conuenient time therein limited for his passage thither. And the Iustice of peace, nert adoining to the place, or direct way, wher any Souldier or Mariner (comming from or beyond the Seas) landeth or trauelleth, & maketh known his pouertie, may Licence him to passe the nert and direct way to the place whither he is to repaire, & may limit him time necessary onely for his

trauel thither: which licence if he pursue, hee may aske and take (without danger) for his necessarie relieſe in such his trauel, that which any persons shal willingly giue him, 39. Eliz. ca. 17. 1. Iac. cap. 25.

Northerne cloathes.

One Iustice of Peace, of the Shire or Riding next adioining to any City, Borough, or towne Corporate beyond the Riuer of Trent, where Northerne clothes be made, may also ioine with them of such Citie, Borough, or towne corporate, in appointing the yeerely ouerſeers for such clothes, &c. 39. Eliz. c. 20.

Now forasmuch as this second booke (containing the power of one Iustice to be exerciſed out of the Seſſion hath great varietie, and is thereby grown somwhat long, I will hereto (for his eaſe) annexe a summarie and short Table, by which he may suddenly and at once (as it were) behold whatsoeuer he alone (out of the Seſſions) may take vpon him to accompliſh.

A Re-

A Recapitulation of the all that which one Iustice of the Peace may *doe out of the Sessions.*

Suretie of the Peace.
Lib. 2. Cap. 2. Pag 74
By Supplicaunt. 75
By his owne discretion. 77
By prayer of the partie. 78
Precept thereof. 85
Supersedeas. 97
Recognisance for the peace. 105
Returne of Supplicaunt. 107
Returne of Certiorari. 108
Release of the peace. 110
Certifie the Recognisance. 112
Suretie of the good abearing. 115
Precept for it. 121
Recognisance. 122
Release. 123
Breach of the Peace. 124
Lib. 2. cap. 3.
Punish affray, assault, &c. 125
Forcible entrie. 135
Lib. 2. Cap. 4.
Record the force. 149
Remoue the force. 149
Enquire of the force. 151
Restore the possession. 152
Execute the writ vpon the statute of Northampton. 157
Riot, Rout, vnlawfull and rebellious assembly. 172
Lib. 2. cap. 5.
Arrest, and commit Riotters, &c. 181

Rebellious assemblies. 183
Make proclamation. 183
Assemble power to repulse them. 184

Statutes implied and meant in the Commission. 185

Lib. 2. cap. 6.

Command. Hue and Cry. Night watches. Search. High waies to be enlarged. Constables to be chosen. 185
Forbid Faires in Churchyards. Compell to sweare to the peace. Charge Constables to arrest Felons. 186

Statutes not mentioned nor meant in the Commission.

Lib. 2. cap. 7. 189
Conseruation of Riuers. 189
Controuersies of masters and seruants. 190
Examine Hunters. 191
Arrest and bind plaiers at vnlawfull games. 191
Tiping in Alehouses. 193
Seise flesh dressed in Lent. 193
Punish offences of making Tile. 193
Commit souldiers that sell harnesse. 194
Receiue the discouerie of Agnus dei. 195
Cõmit to ward ỹ disturbers of any preacher. 195
Seise the goods of any Egiptians, &c. 195
Ioyne in taking the Inrollement of a bargaine & sale. 196
Examine and search workes of Mare. 196
Punish the breakers of the Assise of Fewell. 196
Command persons dwelling in infected houses to keepe in. 197
Call those before him that repaire not to church. 197
Certifie of such as repaire not to their Parish Church. 198

Take

Take the submission and oath of Iesuits, &c. 198
Take the discouerie of a Iesuit, &c. 198
Take the oath of a Recusant comming from beyond Sea. 199
Require the oath of Allegeance. 199
Examine the takers of Pheasants and Partridges. 200
Take Recognisance of destroyers of Pheasants & Partrides. 200
Examine the entring of plaintes in Shirifes Courts. 201
Certifie the vnlading of Corne and graine. 201
Take the examination of him that is robbed before he shall bring his action. 202
Giue aduice for the sale of deceitful Malt. 202
Take bonde of him that is restrained to make Malt. 202
Giue his warrant to leuie the forfeiture for destroying the Spawne of Sea-fish. 203
Heare the offences of watermen. 203
Take the claime of stollen horses. 203
Require submission of Sectaries. 204
Warne not to retiene Recusants. 204
Punish Rogues. 204
Examine suspects touching Logwod. 211
Trie the stretching of Northerne clothes and Kerfies. 212
Giue his warrant to leuie the charges of conueying an offendor to prison. 212
Examine and commit Felons that are brought before him. 212
Binde the Informers against Felons, to giue Euidence. 215
Rate the assesse vpon the Parish. 294
Send to the house of correction, such as will not do their appointed worke. 295
Controll the Sherifes entring of plaints and amerciaments. 295
Take the name of a Recusant departing from ten

miles compasse of London. 295
Take the oath of a confined Recusant on licence had to trauaile. 296
Conuict shooters in Crossebowes and Guns. 296
Take presentments concerning highwaies. 302
Appoint the bestowing of stuffe, or take money for the highwaies in Kent, Sussex & Surrey. 302
Punish hedgebreakers. 302
Rate the assesse for Souldiers: Make testimonial, and giue Licences to them, & to Mariners. 303

Howbeit our Iustice of the Peace is not (in the execution of any of these Statutes) to sit downe and rest himselfe vpon my short collection or note of them, wherein (howsoeuer I haue obserued some substance of the matter) the whole maner of the doing in circumstãce, could not be comprehended: But he must alwaies (for his more assurance) flie vnto the Abridgement of the statutes, or rather to the booke of statutes at large, and thereby fine out, & fenill his whole proceeding. For, as in the penning of law, each word is (or ought to be) of weight and value: So, neither will this Volume containe them wholy, nor the skill of any is able, sufficiently to abridge thẽ, but that he shall do wrong to the substance, & bodie of the Law, which cannot speake plainly, except it speake fully and altogether.

The

THE THIRD BOOKE

containing the Practique of two (or moe) Iustices of the Peace, out *of the Sessions.*

What things any two Iustices of the Peace may doe out of the Sessions: and therein first of *Riots, &c.*

CAP. I.

THe authority and power of one Iustice of ỹ peace, (without the Sessions) thus perused and passed ouer, let vs now examin the like power of two, both in generalitie, and paticular.

It is vniuersally true, that whatsoeuer thing one Iustice of the peace alone is permitted to do, either for ỹ conseruation of ỹ peace, or in the execution of the Commission (or statutes) the same also may be no lesse lawfully performed by two (or mo) Iustices: exept it be in a verie few cases, where some Statutes do seeme specially to appropriate the execution

thereof to some one certaine Iustice, either in respect that he is next to the place, eldest of the Quorum, or such like.

The power of two Iustices of the peace in punishing of Riots, &c.

But we will proceed by particularities: and because the first place of right belongeth to the peace, (wherin the office of this Iusticier chiefly consisteth) & for that also we haue (in the 5. chapter of the second booke) disclosed what an vnlawfull Assembly, Rout, and Riot bee, to the end that one Iustice (which hath some portion of power in them) might thereby vnderstand, what it is that hee ought to preuent, or stay in that behalfe) for the custody of ỹ peace; let vs supplie in two Iustices, that power in punishing those Riots, Routs, & vnlawfull Assemblies, which we said before to bee wanting in one: And that we shall the better doe, if we first of all lay open the statute of King Henrie the fourth, cõtaining a most ample authority, as wel for the repressing, as for the recording of the same, & then may we adioine somewhat out of some other Statutes also.

If any *Riot*, *Assembly*, or *Rout* of people against the law bee made, the Iustices of peace, or three, or two (at the least) of them, & the Sherife (or Vndersherife) of the county shal come with the power of the cõty (if need be) to arrest thẽ, and shall arrest them, & shall haue power to record that which they shall find so done in their presence against the Law. And by that record such

ſuch offenders ſhall be conuicted, in maner and forme as is contained in the Statute of *Forcible entries*, (*viz.* 15. R. 2. c. 2.) And if ſuch treſpaſſers bee departed before their comming, then theſe Iuſtices of Peace, or three, or two of them, ſhall diligently inquire within a moneth after ſuch *Riot*, *Aſſembly*, or *Rout* made and thereof ſhall heare and determine according to the law of the land: and if the truth may not bee found in the manner as aforeſaid, then within a month then nezt following, the ſaid Iuſtices & Sherife (or Vnderſherife) ſhall certifie before the King and his Counſell, all the deeds and circumſtances thereof: which certificate ſhall bee of like force as the verdict of twelue men, &c. And if ſuch offendors doe trauerſe the matter ſo certified, then the certificate and Trauerſe ſhall bee ſent into the Kings Bench, to be tried & determined, as law requireth. And that the Iuſtices of the Peace, dwelling moſt nigheſt in euery Countie, with the Sherife, or Vnderſherife, ſhal doe execution of this Statute, euery one vpon paine of 100. li. to be paid to the King, as oft as they ſhall be found in default, 13. Henr. 4. cap. 7.

Maintenance & embracerie.

Whereupon the Statute 19. H. 7. addeth, that if the ſaid riot, rout, or vnlawfull aſſembly, be not found by the ſaid Iurie, by reaſon of any maintenance, or embracerie of the ſaid Iurors: then the ſame Iuſtices and Sherife, or Vnderſherife ſhall alſo certifie the names of the main-

maintainors, and embracers in that behalfe, (if any bee) with their misdemeanors that they know, vpon paine of euery of the said Iustices and Sherife (or Vndersherife) to forfeit twenty pounds (if they haue no reasonable excuse) for not certifying the same: which Certificate so made, shall be of like force as before,&c. And euerie person duely prooued to be a maintainor or embracer in the same, shall forfeite twenty pound to the King, and shall be committed to ward, there to remaine by the discretion of the Iustices, 19.H.7. cap. 13.

Assistance.

Hereunto also the statute (2. Hen. 5.) adioyneth further, That the Kings liege people (being sufficient to trauell) shall be assistant to these Iustices, Sherifes, or Vndersherifes, when they shall be reasonably warned, ro ride with them in aide to resist such Riots, Routs, and Assemblies, vpon paine of Imprisonment & to make fine and ransome to the King. Prouided alwaies, that the said Iustices, Sherife, or Vndersherife, shall doe their said offices at the Kings costes, in going, tary ing, & returning, by payment thereof to be made by the Sherife, by Indenture betweene him and them, of the said payment. And that such Rioters (attainted of great and hainous Riots) shall haue one whole yeeres imprisonment at the least, without being let out of prison by baile, maineprise, or in any other manner, during the yeere aforesaid: and that the Ryotters (attainted of perite

At the Kings charges.

Riots)

Riots) shall haue Imprisonment as best shall seeme to the King and to his Counsell: and that the fines of such Riotters attainted, shall be by the same Iustices encreased, and put in greater summes, then they were wont to be put in such cases before that time, in aide and supportation of the costes of the Iustices and other officers aforesaid in this behalfe, 2.H.5.c.8.

Capias and proclamation.

Now, if it be witnessed by two Iustices of the Peace, and the Sherife, by Letters vnder their Seales, to the Lord Chancellor of England, that any murders, Manslaughters, batteries, robberies, assemblies of people in great number in maner of insurrection, or other rebellious Riots haue beene done, and that such offendors haue withdrawen themselues, to the intent to auoide the execution of the common Law, then the Lord Chancellor may make a writ of *Capias*, & therupon (if need be) a Proclamation, &c. 2.H. 5.cap.9. which statute was made to endure til the next Parliament, & so discontinued: but it was reuiued by 8.H.6. and made perpetuall: which moreouer, ordeineth, that (before this writ of *Capias* shall be awarded) two Iustices of the peace, and the Sherif of the shire where such riot is supposed, ought to witnesse, that the common voice and fame runneth in the sayd countie of the same Riots, 8.H.6 ca.14.

The letter (or Text) of these laws being thus laide open, let vs also see what exposition and helpe M. Marrow, and others doe bring to some

some parts therof, and especially to ỳ of King Henry the fourth: as wel for arresting the Riotters, as for recording, enquiring, and certifying of the Riot it selfe.

Some part of the occasion of the statute 13. H.4.

Forasmuch as the power giuen by the Statute (17.R.2.8.) for represting of great assemblies and Riots, was deliuered with such coniunctiue, and generall words, viz. To the Sherife, and other the Kings Ministers, that it was often doubted, not only who were meant by ỳ word Ministers, but also whether the Sherife and any of those Ministers (apart) might performe the seruice, or that they ought al to ioyn together therein: Therfore this Statute (13. H.4.) cleareth those questions, and putteth expresse power into the hands of any three (or two) Iustices of the Peace, and of the Sherife (or Vndersherife) not only to arrest such Riotters, but also to conuict them of their offences, by recording of that which they should see to be done against the peace.

Power of the county.

And this authoritie of assembling the power of the countie, and of arresting, and imprisoning the Riotters, was once before this time (namely, 2.R.2.cap.6.) cõmitted to some: but it was by and by after (euen in the selfe same yeare of the same King) resumed, as a thing ouer-hard to be borne (that a Freeman should be imprisoned, without an inditement, or other Triall by his peeres, as *magna Charta* speaketh) vntill that the experince of greater euils

euils had prepared, and made the stomacke of the common wealth able and fitte to digest it.

Now wheras here is mention of the Power of the countie: by vertue of those words, M. Marr. thinketh, that the Justices of the peace, Sherife or Vndersherife, ought to haue the aid and attendance of all knights, gentlemen, yeomen, labourers, seruants, apprentices, and villaines: and likewise of Wards, and of other yong men that be aboue the age of xv. yeares: because all of that age are bound to haue harnesse by the Statute of Winchester. But women, ecclesiasticall persons, and such as be decrepite, or do labour of any continuall infirmitie, shall not be compelled to attend: for the statute (2. Henrici 5. cap. 8. which also worketh vpon the same ground) saith, that persons sufficient to trauell, shall be assistant in this seruice. And it is referred to the discretion of these Iustices, Sherife, or Vndersherife, how many or how few they will haue to attend vpon them in this businesse: and how or in what sort also, they shal be armed, weaponed, or otherwise furnished for it.

Information.

But be it, that information be made to these Iustices, and Sherife, or Vndersherife, that certaine persons be riotously assembled at Dale, and they doe thereupon gather people to suppresse them, and when they come to the place, they find no Riot there: yet are they excusable for

for this assembly of power so made by them: because they did it by information.

And though they doe so much without any information, yet if they find a Riot, when they come to the place, they shall not onely be excused for calling together such company vpon their owne motion, but may also lawfully proceed to punish the offendors, Fitzh. titul. Iustice del Peace 9.

Arrest. And this they ought to doe by Arrest, if they be present: In the execution of which Arrest, they may also iustifie the beating, wounding, or killing of any of ỹ riotters that shal resist it. So if they mẽt with ỹ offendors in their way riotously arraied, and comming frõ the place, they may neuertheles arrest them for their vnlawful assembly: and after this arrest so made the power of the country ought to aid the Sherife for conueying ỹ Riotters vnto the Gaole: without which the arrest were but nugation. And in this point it differeth (by ỹ opinion of M. Mar.) from the arrest of a Felon by Huy & Cry: for there (saith he) when they haue once deliuered the Felon vnto the Sherife, they are no longer compellable to waite vpon him.

The Record of the Riot, and the credite thereof. The arrest thus made, these Iustices, Sherife, or Vndersherife, ought to make a recordin writing of that which they see and finde: the which (since it is a conuiction in it self against the offendors) ought to be formall & certaine, as well for the time, & place, as for the number,

ber, weapon, maner, and other circumstance. For the parties shall be concluded therby, and shal not be receiued to trauerse or denie it: because the view of a riot (as Master Fitzherbert saith) is not to be trauersed. Insomuch as if either they doe record, that they saw a Riot, where in truth there was none at all, or that it doe afterwards appeare by the Record it self, that the Act which they Recorded doth not amount to a Riot, yet be the parties without any remedy. And if a man bee bound to the Peace, & afterwards such a Record of a Riot is made against him and other, hee shall neither iustifie (as M Marrow holdeth) nor plead not guiltie in a *Scire facias* vpon his Recognisance.

If therefore a man be slaine, or maimed, or a rescous be done to the officer, by such a Riot then the Record ought to be, *Riotosè occiderunt*, or *Riotosè mahemauerunt*, or *Riotosè recusserunt*, & not *Felonicè*, nor simply *rescusserunt*: because their authoritie in this case is restrained to ỹ Riot onely: and extendeth not to the Felonie, but so that the parties may (notwithstanding that record) pleade not guiltie to the Felonie, or to the rescusse, howsoeuer (for the Riot) they are estopped.

And this Record ought to remaine with the one of them, and they, (and none other Iustices of the Peace) shall imprison the Riottors, and assesse their fine, Marrow: which fine they are

are willed by the Statute (2.Hen.5.cap.8.) to put in greater ſummes then they were woont to bee put in ſuch caſes, for ſupportation of the coſtes of the ſaid Iuſtices, and other Officers in this behalfe, as well in going and tarrying, as returning: whereof paiment ought to bee made by the Sherife, by indenture thereof betweene him and them.

But if the Riottours ſhall eſcape, after that theſe Iuſtices, Sherife or Vnderſherife, doe come and ſee the Riot, then can they neither arreſt thē at any other time (ſaith M. Marr.) nor award Proceſſe againſt them vpon that record which they doe make: And then, that record muſt be ſent into the Kings Bench, from which place Proceſſe may be made vpon it: where alſo the parties ſhall not be admitted to any trauerſe, but muſt of neceſſitie make fine for their offence.

And now, if theſe Iuſtices, Sherife, or Vnderſherife, ſhall goe to ſee one riot, and then another riot falleth out in their preſence, yet may they make a record of that: Marr. So, if they be aſſembled for ſome other cauſe of ſeruice, or for ſome priuate buſineſſe (as for an arbitrement, or ſuch like matter) and a riot happeneth to be committed in their ſight, they may record it: Marr.

Likewiſe, if the riotters ſhal make a riot vpon the Iuſtices, and Sherife, that doe come of purpoſe to arreſt them from the former Riot, they

they may Record that also, Marr. and so may they (as I thinke) record any riot that shall be done vpon themselues, whilest they be assembled for any other cause then for to suppresse a Riot, though M. Mar. seeme to denie it.

These be the things that I haue obserued, concerning the executiõ of these parts of these lawes, declared against vnlawful assemblies, routs, and riots: whereunto I will adioine a case or twaine, reported by M. Fitz. and will then procéede as I promised.

If two Iustices of the Peace (without the Sherife or Undersherife) shal sée certain persons in doing any riot, they may cause them to be arrested, and may make a record of that offence, whereof the parties shal be for euer concluded, Fitz. tit. Iustice del P. 9. whereto he addeth (in his booke of Iustices of the Peace fol. 17.) that if two such Iustices shal make such a Record (where in truth they saw no such riot) that yet the parties shall be estopped, and are without remedie.

How this Record may be made without the Sherife or Undersherife, since none other statute giueth this power of Recording but this only, I cannot hitherto perceiue: vnlesse it be vnderstood of a Riot committed in their presence whilest they be sitting in Iudiciall place (as in their Sessions) or at the least done to their disturbance, when they be comming vnto the Sessions: and so farre in this way with

him goeth the booke, 7.E.4.18.as wel as that (14.H.7.)which is repoꝛted by Fitz.tit.Iuſtice del P. 9.

The *Recording* of a *Riot*, by the *Iuſtices*, and *Sherife*, or *Vnderſherife*, may be after this (or the like manner.)

MEmorandũ quod xx. die Ianuarij, anno regni Domini noſtri Iacobi, Dei gratia &c. Nos Ed. Hoby *Miles, &* Iohannes Leueſon *Miles, duo Iuſticiariorum dicti domini Regis ad pacem in com. prædicto, &c. aſſignatorũ, &* Martinus Barnham *adtunc vicecomes eiuſdem comitatus, ad grauem querimoniam & humilem petitionem* A. B. *de* C. *in dicto comitatu* Yeoman, *in propriis perſonis noſtris acceſſimus ad domũ manſionalẽ ipſius* A. B. *in* C. *prædicta, ac tunc & ibidem inuenimus* D. E. F. G. H. I. *de* C. *prædicta* Laborers, *ac alios malefactores & pacis dicti dom. reg. perturbatores ignotos, ad numerum decem perſonarũ modo guerrino arraiatos, viz. gladijs pugionibus, galeis, loricis, arcubus & ſagittis illicitè & riotosè aggregatos & eandem domũ obſidentes, & multa mala in ipſũ* A. B. *cõminantes, in magnã pacis dicti dom. Reg. perturbationem, ac populi ſui terrorẽ, et contra formam Statuti in Parliamento domini Henrici nuper Regis Angliæ quarti, anno regni ſui decimo tertio tento editi & prouiſi. Ac propterea nos præfati* Edw. Hoby *&* Iohannes Leueſon, *&* Martinus Barnham, *prædict.* D. E. F. G. H. I. *&c. tunc & ibidẽ arreſtari*

ac

ac proximæ gaolæ dict. dom. reg. in comitatu prædˉ duci fecimus, per visum & recordatum nostrum de illicita congregatione & riotta prædict. cõictos, ibidem moraturos quousque finẽ dict. dom. reg. proinde fecerint. In cuius rei testimonium huic præsenti recordo nostro sigilla nostra apposuimus. Datum apud D. præd. die & an. primùm prædictis.

And the Mittimus, for conueying the Riotters to the Gaole, may be easily (with a few words of change) framed out of that which is before in the chapter of Forcible entries. Enquire of the Riot.

But now, as the lawes haue laied down this order of proceeding against the Riotters that shall be apprehended in their offence: So haue they also prouided, that if the offendors be gone, yet their fault shall not escape with thẽ. And therefore, these Iustices are commanded, first, to enquire of that by others, which they & ỹ Sherife or Undersherife, did not see & find: and if the trueth may not thereby be found, then to certifie what be the impediments.

To this Enquirie, the Sherife or Undersherife be not associated, as they were before in arresting the riotters and recording their disorder: because they are now ministers for returning of the Enquirie, and therefore to be spared from being Iudges therein.

And albeit these Iustices doe not goe to see the riot as this statute biddeth, yet may they enquire thereof within the moneth after.

Euery Iuror of this Enquirie, ought to haue lands in that County to the value of xx. s. by yéere of Fréehold, or xxvj. s. viij. d. of Copihold, or of both, aboue all charges: vpon euery of which also the Sherife ought to returne xx. s. in issues at the first day, and xl. s. at the second day, 19. Hen. 7. cap. 13.

Moreouer where the Statute saith, that the same Iustices shall enquire, yet if any other Iustices of the peace there (and not they) shall doe it, that will suffice, Mar.

Neither is it of such necessitie to haue the Enquirie within the Moneth, that for default thereof the presentment shall be void, for the Iustices of the Peace may enquire therof at any time by force of their Commission: but if it be not within the moneth, euery of them that be the next, is in danger to lose 100. l. for it. And therefore if these Iustices doe charge the Jurie within the moneth, and do giue day vnto them for yélding their presentment after their moneth, the statute is not offended by it: Marrow.

But if it happen the parties to fal to an accord amongst thẽselues, so as none of thẽ will sollicite the Iustices to make the Enquiry: yet ought ỹ Iustices to procéed *ex officio*, as knowing ỹ either some of ỹ Jurie may haue knowledge of the fact, or that (vpon Proclamation made to giue euidẽce for the King) some other persons may come forth ready to enformethẽ.

The

The trueth of the matter being found by this enquirie, these Iustices haue authoritie by this statute not onely to make out Processe against the offendors vnder their owne *Teste*, but also to commit them to prison till they make their Fine, and to deliuer them after payment of the same, or vpon sureties taken for it: or otherwise to receiue their trauerse, and thereupon (if the matter will so serue) to discharge, and dismisse them.

For, to all these effects (as I thinke) the words of the Statute (heare and determine according to the Law of the Land) doe lead and inable them.

On the other side, if by this enquiry the fault be not brought to light, being hindered either by the malicious peruertisie of the Iurors, or by the vnlawful maintenance, countenance, or embracery of other men that put themselues into the cause: yet ought there (within one moneth after such Enquiry) a Certificate to be made, as well of the names of the principal offendors, and of so much of the fact, and circumstances therof, as may by any waies or meanes appeare, as also of the names of such maintainers, and imbracers, and of their misdemeanors in this behalfe. Certifie the Riot.

And here the Sherife (or his Undersherife) is once more called to this seruice, and ioyned with these Iustices, who by reason of his presence at ỹ enquirie, may both help to espie the

euill, and adde force, and credite to the Certificate. The end of which Certificate, is but onely to put the offendors to answere.

For, although the words of the statute doe make the certificat equall in force with the verdict of xij. men: yet, forasmuch as it followeth in the same statute, that the Certificate may be trauersed, that is a plaine proofe, that it is no conuiction at all, but is only of the nature of a declaration, presentment, or enditement, at the common Law: and therefore also, it ought to comprehend the certaintie of the time, place, persons, and other circumstances, though perhaps (as M. Marrow holdeth) it néedeth not to expresse the additions of the parties, as not being within the words of the statute (1.H.5.ca.5.) because no processe of vtlawrie doth lie vpon it.

And, whereas the Enquirie is good, though it be had after a moneth from the offence committed, this Certificate (saith Marrow) is not good, vnlesse it be made within the moneth after the Enquirie: because the power of certifying is giuen by the statute onely, which is the warrant that they must pursue.

Moreouer, where the statute willeth that they shall certifie before the King and his Coũsell: it séemeth to me, that the same ought to be done either to the bodie (and bord) of ỹ priuie Counsell, or into the Star Chamber at the least, because ỹ statute it selfe doth by expresse

words

words distinguish the King & his counsel here both from the Chancerie, and from the Kings bench, which in many other cases be taken for the king, and his counsel also. And this I do ỹ rather note, because I haue read of certificats of this kind, sent by Justices of the peace into the Starre Chamber, & for that it is penal to those Justices, Sherifes, or Undersherifes, if they shal not addresse their Certificate, as the statute doth appoint them.

But now, if two Justices, and the Sherife goe to sée a Riot, & other two Justices make ỹ Enquirie: then the one sort or the other of thẽ, (with the Sherife or Undersherif) may make the Certificate, Mar. And if foure Justices, the Sherife, and Undersherife go to see a Riot, & two of those Justices and the Sherife ioins in one Certificat, & the other two & the Undersherife ioine in an other Certificate, then the Certificate whereunto the Sherife is partie shal be preferred: because the authority of the Undersherife, is ouer-shadowed by the Sherifes owne presence: Mar. But otherwise, if two certificates be equall, then that shall bee preferred which is best for the King.

And the same rule must hold, were the Enquire, & Certificat shal disagrée: for, if the Enquirie shall finde that the Riot was made by 12. persons, where in truth it was made by 100. or if the Enquirie be of 12. persons, & the truth is that those 12. were harnessed: or if the

Enditement be of a riotous assault only, & the Riotters did both make an assault, & did beat & wound: in these, & the like cases, the certificat may well be made so, as the omission in ỹ Enquiry shal be supplied by it, Mar. Howbeit (he saith) that if they shall varie onely in the day, then the Enditment shall be preferred.

And if after the Enquirie, & before the Certificate, the Sherife die, or one of the Justices be put out of the Cõmission, no Certificate can then be made, Mar. But if the Riot were recorded by the Iustices, and Sherife, & the Riotters do escape, yet may that Iustice of ỹ Peace (so put out of the Commission) ioine with the other Iustice and the sherife, in their certificat of the same, Mar.

These speculatiõs of M. Marrowes reading, are like ennough to fall in practise, & therefore I thought it not amisse to acquaint the reader before hand with some of them.

The paine of 100 l. vpon the Justices.

There remaineth yet the last branch of the statute (13. H. 4. that willeth ỹ Iustices of peace (most nigh in euery County, to the place where such Riot, or Rout shall be) to doe execution of this Statute, vnder the paine of 100. li. vpon euerie of them for euerie default. Upon which words these notes may be gathered: First, ỹ no Iustice of ỹ peace (dwelling out of ỹ countie where the riot is) can be charged, although he be the next vnto the place: Secondly, that if any other Justices (that bee not next vnto the

the place) shall execute the statute, then that will excuse those Iustices that be the next, because they all haue power by the first part of the Statute.

And this is the cause for which I haue take leaue to place these things before, vnder ẏ authoritie of any two Iustices generally, although the statute doth specially (& that by a greater paine) bind them that be ẏ next. Yea, all the Iustices, of peace (within the commission and county) ought to supply the default of ẏ next Iustices if they haue notice of such vnlawfull Assembly, Rout, or Riot: for, so was it lately adiudged in ẏ Starre-Chāber: howbeit that penalty of 100.l. was there laid vpon the next Iustices onely, & the residue were Fined by the discretion of that Court, according to the exigencie and temper of their fault.

Thirdly, it is to be gathered, that if one or two of the Iustices of the peace (that be next to the place) shall come to execute the statute, and the Sherife or Vndersherife, do not come at all, yet those Iustices shall bee excused for their C.l. And M. Mar. thinketh that in this last case, the Iustices be bound to send for the Sherife or Vndersherife, and not they for the Iustices: and in the same case also it seemeth that the Iustices shall bee fined, if they arrest not the Riotters, or doe not moreouer all that which without the sherife or vndersherif, they are herein by any way authorized to performe

Lastly,

Lastly, that they shall doe execution of this Statute, that is to say, of al, & euerie part therof respectiuely as to such Iustices, Sherife or Undersherife, is thereby appointed. But whether they are to take notice of such Riots at their perill, or may safely expect the information therof, I find it both doubted & vndecided, Collect. Dier, 110.25.

Thus much of these things after this consideration: now to some Presidents for the furtherance of these Iustices in the execution, & then to our other matters.

The precept to the Sherife, for Enquirie vpon a Riot, may beare this forme.

MIchael Sondes *Miles*, & Matheus Hadde *Armig. duo Iusticiariorum, &c. assignatorũ Vicecomiti eiusdem Comitatus, Salutem: Ex parte dict' dom. Reg. tibi præcipimus, quòd venire facias coram nobis apud I. in Comitatu predicto 29. die Ianuarij proximè futuro 24. probos sufficientes, & legales homines de comitatu prædicto, quorum quilibet habeat terras & tenementa, infra dictũ Com. liberi tenemẽti per chartã, ad annuum valorem xx. solid', aut per copiam Rotulorum Curiæ ad annuum valorem 26. solid' & 8. denariorum, aut per vtrũque, vltra omnes repriſas: ad inquirendũ pro dicto domino Reg. ac pro indemnitate nostra in hac parte super sacramentum suum de quibusdã illicitis aggrega-*

gregationibus & Riottis apud C. in Comitatu prædicto nuper commissis vt dicitur. Et hoc nullatenus omittas sub pœna 20. lib. quam incursurus es si in executione præmissorum defeceris. Et habeas ibi tunc nomina Iuratorum prædictorum, & hoc præceptum: Datum sub sigillis nostris xx. die Ianuarij, Anno regni dicti domini nostri Iacobi, &c.

The entrie of the Presentment (or Enquirie) may haue this forme.

INquisitio pro domino rege &c. (as before in Forcible Entries) *coram* Mich. Sondes Milite & Math. Had. *Qui ad hoc iurati & onerati, dicunt super sacramentum suum prædictum, quod D. E. F. G. & H. I. simul cum alijs malefactoribus, & pacis dicti domini regis perturbatoribus ignotis (ad numerum septem personarum) modo guerrino arraiati, vi & armis, viz. Hawberdis, gladijs, arcubus, & sagittis, vicesimo die mensis Ianuarij, vltimo præterito, apud C. in comitatu prædicto, inter horas octauam & nonam, post meridiem eiusdem diei, domum mansionalem A. B. de C. prædict' Yeomen, scituatum in C. prædicta, riotosè fregerunt, & intrauerunt, & in ipsum A. B. tunc & ibidem insultum fecerunt, ac ipsum tunc & ibidem verberauerunt, vulnerauerunt, & indignis modis tractauerunt, ita quod de vita eius desperabatur, in magnam pacis dicti dom. reg. perturbationem & populi terrorem, ac contra formam Statuti de riottis, routis, & congregationibus gentium illicitis* Kane.

illicitis in parliamento dom. H. nuper Regis Angl. 4. Anno regni sui 13. tento prouisi & editi.

And as for the Certificat (which ought to be made to the King, and the Counsell) that may be done in English, by way of a letter, comprehending the truth of the matter present, as the case shall require.

And heere, let vs leaue these vnlawfull Assemblies, Routs, and Riots, and addresse our stile to other statutes.

Seruants and Labourers.

Any two Iustices of the peace, vpon complaint, that any seruant retained by ỹ statut, departeth before the end of his terme, or at the end thereof without a quarters warning: or ỹ any person (compellable by the statute to serue) doth refuse to serue for the wages appointed, may examin the matter, (and finding such seruant or person faulty) may commit him to ward, there to remaine, till he shall be bound to the partie offended, to serue and continue according to the Statute.

They also, may imprison for ten daies, the maister that giueth, and for 21. daies the seruant that taketh, more wages then after the rates thereof made: and may imprison for a whole yeere, such seruant as shall be conuicted before them (by his owne confession, or by the oaths of two honest men) to haue made any assault vpon his maister, or mistresse, or other person hauing ỹ charge of him, or of ỹ work: & they may apoint any womã (being vnmaried

of

of the age of xij. yeares, and vnder fortie) that is out of seruice, and whom they shall thinke méete to serue, to bée retained by their discretion, and may vpon her refusall commit her to warde, till shée will be so bound to serue, 5. Eliz. cap. 4.

Seruingmen

Any two Iustices of the Peace, may make testimoniall to a Seruingman, that is turned away from his master, or whose master is dead, 14. Eliz. cap. 5. and 18. Eliz. cap. 3. and 27. Eliz. cap. 11.

Apprentices.

Any two Iustices of the Peace may giue assent to the Churchwardens and Ouerséers, or to the greater part of them, to bind (as Apprentices) the children of poore parents, til the age of the manchild of 24. and of the woman child till 21. 39. Eliz. cap. 3.

Northern Cloth.

Any two Iustices of the Peace may dispose of the monies rysing by the deceitfull stretching of the Northern Cloth &c. 39. Eliz. ca. 20.

Warrant to leuie forfeitures for Rogues.

Any two Iustices of Peace may by warrant vnder their hands & seales, cause to be leuied (by distres, & sale of the goods of the offendor) all Fines and Forfaites, that shall grow by the Confession of the offendor, or by proofe of two lawfull and sufficient witnesses, before them, vpon this statute of Rogues, 39. Eliz. cap. 4. See 1. Iac. cap. 7.

Rogues.

Any two Iustices of Peace may send to the house of Correction, there to be dealt with as a sturdie Rogue, such person able to worke, as shall

shall threaten to run away, & leaue his familie vpon the Parish, the same being proued by oath of two witnesses, before such 2. Iustices: vnlesse he can put in sufficient suerties for discharge of the parish, 7. Iac. cap. 4.

Alehouse. Any two Iustices of Peace may giue allowance, for vrgent and necessarie occasions, to remain in an Inne, victualling house, or Alehouse. 1. Iac. ca. 9.

Malting. Any two Iustices of Peace may duely conuict by two witnesses, or by the parties Confession, any person that shall disobey the restraint of Malting, made (against) in the open Quarter Sessions, and shall commit him to prison, without Baile or Mainprise for three daies, and vntill that hée become bounden in pl. k. to some one Iustice to performe such restraint, 39. Eliz. cap. 16.

Quære of this (against) I think it should be out.

Licence to go to Bath or Buckstone. Such two Iustices may licence diseased persons (liuing of almes) to trauell without begging to Bathe, or to Buckstone, for remedy of their griefe, 39. Eliz. cap. 4. 1. Iac. ca. 25.

Change a highway. By the ouersight of any two Iustices, and 12. discréet men of the Hundred and Hundreds adioyning, any person (within the Weald of Kent) may make in his owne land a new high way, more commodious then the old, 14. H. 8. cap. 6.

Appoint Ouersées of Cloth. Two such Iustices may once euery yeare appoint Ouersées (for ỹ whole yere following) of cloth to be made, or sold, in any Town (not

(not being corporate) & may charge thē vpon their oathes, to see execution of some parts of the Statute, 3. Ed. 6. cap. 2. yet in force.

The Sorter, Carder, Kember, Spinster, and Weauer, imbezilling any part of the woll or yarne deliuered him, and his receiuers, may be conuicted before 2. Iustices of peace by confession of the partie offending, or oath of one witnes: which Iustices may appoint satisfaction to the partie grieued: and if the party offēding be not by ẏ said Iustices thought able, or do not make satisfactiō accordingly, he is to be whipped, or set in the Stocks: And such 2. Iustices haue full power to minister ẏ said oath, and finally to heare, end, and determine the offences against this Act, 7. Iac. cap. 7. Clothing.

Within fiue daies (after acculation had, that any person hath disturbed a Preacher, & after his committing to safe custodie by one Iustice of the peace) one other Iustice of the Shire must ioine with him in the examination of the offendor, and may proceed to finde him guilty by his owne confession, or by two witnesses, and thereupon commit him to the next Gaole, for three Moneths, 1. Mar. Parl. 1. cap. 2. Alike of the continuance of this Statute as before. Disturbe a Preacher.

The offences against the statute, 1. Iac. c. 27 in destroying any Fesant, Partridge, Houledoue, &c. or taking or destroying ẏ eggs of any Fesāt, Partridge, or Swan, or tracing Hares in Fesants, Partridges, &c.

in the Snow, or destroying them with Hare pipes, cords, &c. being proued before any two Iustices of Peace by the parties confession, or oath of two witnesses, the offendor may be by thē imprisoned 3. Moneths, without baile or mainprise, vnlesse he forthwith pay to the vse of the poore for euerie Fesant &c. x̄ for euery egge of Fesant, Partridge, or Swannes, x̄ for euery Hare taken or destroied, contrary to to this Act, xx.s̄. or after one month after his commitment, become bound with two sufficient Sureties in Recognizance of 20.l. a peece to the Kings vse, before any two Iustices of Peace, neuer after to commit the like offence. Which Recognizance must be returned to the next quarter Sessions, to remaine there of Record. And in like manner they may deale with offendors in kæping Greyhoūds, setting dogs, or nets, contrarie to this statute, vnlesse the partie offending pay as aforesaid, and to ỹ vse aforesaid, 40.s̄. 1. Iac. cap. 27.

See 7. Iac. cap. 11. that the proofe of taking Fesants or Partridges with setting dogs & nets, or other nets, snares or engins, may be by oath of one witnesse: and that on payment of 20.s̄. for euerie Fesant or Partridge, ỹ offendor shal be bound in such Recognizance as abouesaid. And See, by the same statute, taking of Fesants and Partidges, in the day time, allowed to some persons, on their owne freehold, 7. Iac. cap. 11.

Any

Any two Iustices of Peace may giue warrant vnder their hands vnder the Counsel, or Headborough, to search the houses of persons supected, for Setting dogges or Nets, other then such as are allowed to take Fesants, and Patridges by this Statute, 7. Iac. ca. 11. Untimely Hawking at

All the offences against the said Act, 1 Iac. cap. 27. may bee examined, heard, punished, and determined, and euery thing, requisite for due executiõ thereof, performed, by two Iustices of Peace out of the Sessions, 1. Iac. cap. 27.

The offences of destroying Fesants or Partridges with Hawks or dogges, betweene the first of Julie, and last of August, being (within fiue moneths after such offence done) confest, or proued by oath of two witnesses, before two Iustices of peace, they may commit ỹ offendor to the Gaole for one month without baile or maineprise, vnlesse he forthwith pay to the vse of the poore fortie shillings for euerie such hawking, and twentie shillings of euerie Fesant or Partridge destroied, 7. Iac. cap. 11. Fesants or Partridges. Setting dogs or Nets.

Any two Iustices of the peace of the countie, where any of his Maiesties subiects (not being a Iesuite, Seminarie Priest, or other Priest, religious, or Ecclesiasticall person, &c. now being, or which hereafter shall be of, or brought vp in any Colledge of Iesuits, or Seminaries shall arriue within fiue monethes next after proclamation to bee made in that Iesuits and Seminaries Colledge.

behalfe in the City of Londō vnder the great Seale of England) may within two daies next after such returne, receiue his submissi-on, vnder the Oath set forth by Act in the first yeere of the raigne of the late Queene Elizab. 27. Eliz. c. 2.

Submission of one reconci-led to the See of Rome.

Any two Iustices of Peace of the Coun-tie where he doth arriue may take the Sub-mission of any person Reconciled to the See of Rome, within fiue daies after his re-turne into the Realme, and minister the Oath set forth, 1. Elizab. cap. 1. and the Oath of Allegeance set forth in this Act: And are to Certifie the same Oathes so ta-ken at the next Quarter Sessions, vpon paine of fortie pounds, 3. Iacobi capit. 4.

Oath of Alle-geance.

Any two Iustices of the Peace may take the saide Oath of Allegeance of such persons as haue charge of Castles, Fortres-ses, Blocke-houses or Garrisons, and of Captaines hauing charge of Soldiers with-in this Realme: And on refusall may com-mit the offendor (being of the age of eight-teene yeeres) to the common Goale, without Baile or Mainprize, till the next Assises, or generall Quarter Sessions, 7. Iacobi cap. 6.

Subsidie.

If any person that ought to bee set to the Subsidie, doe by his craft or couine escape the

Tax-

Taration, and that be proued before two Iustices of Peace of that Countie: then shall hée be charged at the double value of so much as he ought to haue bin tared at, and shal further be punished at the discretions of the said Iustices, 7. Iac. Reg. and diuers former acts of Subsidies.

Plague.

The Maior, Bailifes, head Officers, and Iustices of Peace of euery Citie, Borough, towne Corporate, and places Priuiledged, or any two of them, may assesse the Inhabitants thereof, and Lands and Tenements therein, at such reasonable tares, as they shall thinke fit, for relefe of poore persons infected with the Plague, and dwelling in houses infected; to be leuied, by their warrant, of his goods that refuseth or neglecteth to pay the said Taxes: and in default of goods, & on refusall to pay, the said Maior, Bailifes, head-officers, or Iustices, or any two of them, may by like warrant commit the offendor to the Gaole without Baile or Mainprise, vntill he satisfie such taration, and the arrerages thereof, 1. Iac. ca. 31.

Upon certificat by the Maior, Bailife, head-officers, & Iustices of Peace, of such City, Borough, towne Corporate, or place Priuiledged, or any two of them, of the vnabilitie to relieue their Infected, to any two Iustices of peace of the county, of or nere to ỹ said city, &c.

the same Iustices of the Countie may tax the Inhabitants within fiue miles of the place infected at such reasonable weekely rates, as they shall thinke fit: to bee leuied by warrant of any such two Iustices of Peace of the Countie, by sale of goods, and in default thereof by imprisonment, as aforesaid, 1. Iac. cap. 31.

If such Infection be in a Borough, Towne Corporate, or Priuiledged place, where there are no Iustices of Peace, or in a Village: Then any two Iustices of Peace of the Coũty may tax as aforesaid, the Inhabitants within fiue miles of the place infected; to be leuied as aforesaid, 1. Iac. cap. 31.

And such Iustices of Peace may appoint Searchers, Watchmen, Examiners and Buriers for persons and places infected with the Plague, minister vnto them Oathes for performance of their Offices, and giue them other directions, after their discretion, 1. Iac. cap. 31.

Popish Recusants.

Any two Iustices of the Peace may require any Popish Recusant (not making submission according to this Statute) to abiure the Realm vpon his Corporal oath before them, 35. Eliz. cap. 2.

Search for Popish bookes, &c.

Any two Iustices of Peace may search the houses & lodgings of euery popish Recusant conuict, or of euery person whose wife is a popish Recusant conuict, for popish bookes and re-

liques

liques of Popery: And if any altar pix, beads, pictures, or such like Popish reliques, or bookes be found, as in the opinion of the said Justices shall be thought vnmeete for such Recusant to haue and vse, the same shall be presently defaced and burnt (if it be meet to be burned) And if a Crucifix or other relique of any price, the same is to be defaced at the generall Sessions of peace, and restored to the owner, 3. Iac. cap. 5.

What things some two Iustices of the Peace may doe out of the Sessions: and therein of Baylment,

Cap. II.

IT falleth out many times, that the Statute lawes ragarding some Iustices aboue others, either for the opinion of the abilitie or learning that they should haue (being of the Quorum) or for the aduantage & facilitie that they haue to dispatch the affaire, by means of their nereneſſe and dwelling, or for the indifferency ỹ they are likely to vse in the handling of the cause (as being neither of kindred, nor alliãce to any of the parties) doe many times make choice of some two Iustices: and do either altogether close the hands of the rest, or els doe

chiefly repose the truſt in theſe that be choſen and elected.

Bailement. Amongſt thoſe of this kind, the ſtatute for Bailement of priſoners worthily craueth the firſt place, whether you reſpect the weight of the matter that it concerneth, or the length of the diſcourſe that it requireth: the one tending to deſired liberty, and the other comprehending much varietie.

This ſauing then (or deliuerie) of a perſon out of priſon, before he hath ſatisfied ỹ law, is vttered by three termes in our Statutes, that is to ſay, Bailemen, Mainprise, (or manucaption) and Replenint. And they be indifferently vſed, to expreſſe that ſuretie which the priſoner is to finde in ſuch a caſe. For that which Bracton and the ſtatute W. 1. cap. 15. (made 3. E. 1) do ſpeake, of ſetting at libertie of acceſſaries by the words *Replegiari*, & of ſetting out by ſufficient Pleuin, Britton, and the Regiſter do expreſſe by finding of Mainprise: ỹ ſtatute 5. E. 3. ca. 8. by letting to baile: that of Marleb. cap. 27. (made 52. H. 3) by *tradi in ballium vel replegiari*: And the Statute of 2. E. 3. cap. 9. making mention of the writ *De homine replegiando* to bee directed to the gardein of a Forreſt, declareth ỹ effect therof to be, that he ſhould repleuy ỹ priſoner by good Mainprise: The ſtatute 23. H. 6. cap. 10. that commaundeth the Sherife to let out of priſon (ſuch as he hath arreſted vpon Inditements of Treſpaſſe) vpon reaſo-

Differences between Bailment, Mainprise, and Repleuin.

reasonable surety of sufficient persons, calleth the same a letting to Baile or Mainprise: And 1. & 2. P. & M. cap. 13 seemeth to make al the three words συνωνυμα, and of the same signification.

Neuertheless it seeme that Repleuin had his originall of the word Pledges, which denoteth them that vndertake for the party, that he shall abide to be iustified by law: And it is vsed in diuers other cases, as in Repleuin of cattel vpon a distresse, Repleuin of Franchises in a *Quo warranto*, Repleuine of Land vpon a *Grand cape*, in old time, and repleuying of the person of a man in case of Villenage. Repleuin.

Bailement is deriued from the French tearme Bailler: and that also commeth of the Greeke Βαλλειν, they both signifying, to deliuer into hand. For hee that is bailed is taken (or kept) out of prison, and deliuered (as it were) into the hands of his friends as Sureties for him, whereof also the word *Manucaptio* (or Mainprise, which is all one) giueth good euidence: the one mentioning the deliuerie, the other the receiuing of such a prisoner. And in this respect, the booke of the Normane Customes calleth Bailement a liue prison: for that the party thereby becommeth prisoner to his friends, that doe vndertake for him.

But Bailement and Mainprise haue beene taken to differ in the practise of our Com- Mainprise.

mon Law: for hee which is properly bayled by the Iustices of any Court, hath beene neuertheleſſe reputed to be a priſoner there ſtill, and his Sureties to be (as it were) his ſpecipal gardeins: otherwiſe it hath bin thought of him that is let to Maineprise, as may bee ſeene by the Booke Caſes, 33. Edw. 3. & 36. Edw. 3. Corone Fitzh. 12. & 13. 7. Hen. 6. 42. 31. H. 6. 10. 38. H. 6. 23. 9. Edw. 4. 2. & 21. H. 7. 33. But at this day, how long he ſhall be adiudged to be a priſouer, *Et in cuſtodia Mareſcalli Mareſcalciæ, &c.* that is bailed in the Kings Bench, the cuſtome of the court it ſelf muſt rule the matter: for it differeth ſomewhat) if I be not deceiued) from thoſe opinions.

Howbeit for as much as in our courſe (cõcerning Iuſtices of the peace (it is not ſo needful to ſtay vpon the difference between the words as to proceed to diſcloſe the vſe & maner of the thing: let vs examine the power of the Iuſtices of peace in this behalfe.

It ſeemeth, that Iuſtices of the peace might (after the ſtatute, 34. Ed. 3. cap. 1. that made them cõplet Iudges) haue letten to baile ſuch perſons as were indicted of Felony before thẽ in their Seſſions, euen as the Iuſtices of the Kings bench vſe to doe: but not ſuch as were arreſted for ſuſpition of Felony, and not indicted therof before them, becauſe before the indictmẽt they were no Iudgers ouer them. And

for

for helpe herein, it was ordained (1.R.2.ca.3.) that euery Iustice of Peace might let to baile any suspected of felonie. But that law begat some inconueniences, & therefore it was some after repealed (by 3.H.7.) which left power to two Iustices of the Peace (the one being of the *Quorum*) to let any prisoners (manipernable by the Law) to baile, to the next generall Sessions, or the next Gaole deliuerie: & willeth that they shall then certifie such baile taken, vpon paine to forfeit for euery default (therupon recorded) ten pounds to the King. 3.H.7.cap.3.

And here againe there sprang vp an other inconuenience: for then Iustices of Peace would not sticke to borrow one an others name, (as many yet still do) & by that meane defraude the good meaning of the Statute: Whereupon it was lastly prouided by 1.&.2. P & M. as followeth.

Bailement of prisoners, and examination before they be bailed.

That no Iustice, nor Iustices of peace, should let to baile any person cõtrary to the said statute of *West.* 1.cap.15. And that no person, being arrested for manslaughter, or felonie, or for suspition of either of thẽ (being bailable by the law) should be bailed by any Iustice of peace, if it be not in open Sessions, or by two Iustices of the Peace at the least (the one of them being of the *Quorum*) and the same Iustices to be present together at the time of the said Bailement. & that they shall certifie (in writing, subscribed, or signed with their owne hands) the said bailement

or

or Mainprise, at the next generall Gaole deliuerie, to be holden within that shire where that person shall be arrested, or suspected: And that the said Iustices, or one of them, (being of the *Quorum*) when such prisoner is brought before them for manslaughter or felonie, shall before any bailement, take the examination of that prisoner, and the information of them that bring him, of the fact and circumstances thereof: and the same, or so much thereof, as shall be materiall to prooue the Felonie, shal put in writing before they make that bailemēt: which examination and bailement the said Iustices shall certifie at the next Gaole deliuery, within the limits of their Cōmission: And the said Iustices shal haue authority by this Act, to bind all such by Recognusance (or Obligation) as doe declare any thing material to proue the said Murder, or Manslaughter, offences, or felonies, or to be accessarie or accessaries to the same, as is afore said, to appeare at the said next Gaole deliuerie, where the triall thereof shall be, then & their to giue euidence against the partie, at the time of his triall, and shall certifie all and euery such bond in like manner, as is abouesaid of the Bailement and examination 1 & 2 Phil. & Ma. cap. 13.

This statute of Bailement I haue purposely recited at large because it both comprehēdeth some such other things as must concurre with the Bailemēt of the prisoner, & also prouoketh me

mẽ to set downe the statute of West.1. and to shew what persons are baileable by the Law: for to either of these it referreth it self (as you haue séene) and is also restrained by them.

Persons baiable, and not.

Now by the statute of W.1.cap.15. Prisoners that be before outlawed, or haue abiured: prouours: felons taken with the manner: those that haue broken the Kings prison: notorious and proclaimed theeues: those that are appealed of prouours, so long as the prouers be liuing (if they be nor of good fame:) those which are taken for felonious burning, or for falsifying the Kings Money, or his Seale: or which are taken vpon Excommunication, or for open euill, or for Treason touching the King himselfe, or for death of a man, or by the commaundement of the King himselfe, or of his priuie Counsell, or by the absolute and not ordinarie commaundement of the Kings Iustices, or for the Forrest: be not repleuisable by the common Writ (nor without Writ) by Shirifes, nor other Gardeins of prison. But he that is taken for light suspicion: or is indited of *petite Larcenie*, (not being guiltie before of other *Larcenie*) those that bee charged with the receipt of Theeues, or Felons, or of commaunding, or force, or aide: or charged with Trespas, that toucheth not losse of life, nor member: and he that is appealed by a Prouour (being no common Theefe, nor defamed) after the death of the Prouour, is baileable by the Statute.

Againe,

Againe, the Statute, 23. H. 6. cap. 10. prohibiteth those that be in prison by cõdemnation, execution, *Capias vtlagatum*, excommunication: for Suretie of the peace: or by special commandement of any Iustice, to be bailed, by Shirife, Keeper of prison, or other Officer or Minister: But willeth and commandeth, that al those that be arrested by force of any Writ, Bill, or Warrant, in any action personall, or because of any inditement of *Trespas*, be let out of prison, vpon reasonable sureties of sufficient persons, hauing sufficient within the Counties where they be to be let to baile or mainprise, to keepe their daies in such places as the said Writs, Bils, or Warrants shall require.

Both these last Statutes (as appeareth) were at the first made to giue a rule vnto Shirifes and other officers, aswell for the letting to baile, as for the retayning of their prisoners. But as the statute of West. 1. is by the expresse letter of 1. & 2. Phil. & Mar. set forth as a line whereby the Iustices of Peace are to guide thẽselues: so it seemeth to me, that they ought to haue an eye vnto the other statute also: forasmuch as certaine other persons be therein also mentioned not to be baileable by Law, and so within ỹ reach of the very words that lie in the statute of Philip and Mary.

Baile for Manslaughter.

And first, this statute 1. & 2. Phil. & Mary, seemeth to distinguish these words (Death of a man) that are read in the statute of Westminster

ſter the firſt, & in this place to reſtraine them to Murder only: ſéeing that it admitteth, that (for ſome death, or Manſlaughter) the ſlayer may be lawfully bayled: which alſo is the cõmon practize in that behalfe.

We learne alſo, that he which (within the yeare) is acquited of Murder or Manſlaughter, at the Kings ſute, muſt be remitted to priſon, or let to mainprize til the end of the yeare, and the party græued, may in the meane time commence his Appeal, 3, H. 7. cap. 1.

It ſéemeth moreouer, that he which is indited of Felonie, is not baileable, Lib. Aſſ. 41. pl. 30. nor he which confeſſeth the Felony whereof he is accuſed: for that ſtatute (Weſt. 1.) meaneth to exclude the one, when it ſaith, that he which is indited of Petite Larcenie, may be bailed: and the other, when it denieth Baile to a Prouour, who muſt begin with confeſſion of his owne fault, before he may be admitted to burthen an other man.

And if a man be taken vpon Proceſſe of Rebellion, iſſuing out of the Chancerie or Starchamber, thoſe Iuſtices of Peace may well be thought void of diſcretion, that ſhall take vpon them to baile him.

Further, me thinketh that I may ſet downe this as a rule (euen at the common Law) concerning Bailements. That the Iuſtices of the peace cãnot meddle with the Bailement of any priſoner, except he be priſoner for ſuch a cauſe, whereof

whereof the Iustices of Peace bée competent Iudges: which also was ỳ cause, that one Iustice of the peace could not by force of the Cõmission only, haue bayled suspects of Felony, before that they were indited therof, as I haue told you. For out of their Sessions, and before inditement, they were no Iudges of such a matter.

And on the other side, it seemeth that two Iustices of the peace (the one of them being of the *Quorum*) may out of the Sessions, baile such as come into prison by the processe of the Sessions made vpon penall Lawes, not forbidding baile: because two such Iustices be competent Iudges of all those matters, insomuch as they may heare and determine them.

Aduise concerning bailement.

Sundry doubts (I confesse) may be made concerning the businesse of baile, which I am not able to dissolue, & therfore not much willing to moue. Only this I wil say for al, that it becommeth Iustices of the Peace to be verie circumspect in graũting baile, both for feare of wrong by denying it to him that is repleuisable: and for feare of danger to the seruice it selfe, by giuing it where it is not grantable.

And therfore I aduise them to consider first, whether the power of baile (when it is required) be not taken from them by some of those former recited Statutes: and then, whether that particular Statute it selfe (against which the prisoner is charged to offend) do not specially

ally prohibite the baile: for you shal meet with many statutes, which do not onely take baile from the offendors therof, vpon their solemne conuiction after iudgement, but also vpon the Record of some one or two Iustices of ỹ peace, or by examination, or proofe by witnesses, or such other priuate triall, had before them.

For example, take a few of each kind, seeing it would proue troublesome to report them al.

1 He that is conuicted before the Iustices of the peace, vpon the statute of Liueries, shalbe cõmitted to prison for one whole yeare, without Baile or Painprise, saith the statute, 8. H. 6. cap. 4. Liueries.

2 He that is conuicted before them, for abusing a Licence of trãsporting victual, shal likewise be committed by them, and shal remaine there a whole yeere without Baile or Painprise, 1. & 2. Phil. & Mar. cap. 5. Licence to transport.

3 He that is conuicted before them for offẽding the statute made against Forestalling, &c shall be committed to the Gaole for two Monethes without Baile or Painprise, 5. Ed. 6. cap. 4. Forestalling.

4 And he that is conuicted before them for offence against the statute of Musters, shall be awarded to remaine in prison without Baile or Painprise, till he haue paied the forfeiture, 4. & 5. P. & M. ca. 3 Musters.

1 Againe, if any one Iustice of the Peace shall finde, or know any to haue exercised any Games.

vnlaw-

vnlawful games, he may cõmit him without Baile or mainprize, till he will become bound no more to vse vnlawfull games, 33. H. 8 c. 9.

Seruant. 2 So he that is conuicted before two Iustices of the peace to haue refused to serue for such wages, as is by order appointed, shal remaine in prison without Baile or Mainprize, till hee will be bound to serue accordingly, 5. Eli c. 4. the like is of some other points in that statute

Alehouse. 3 He that is cõmitted by two Iustice of the Peace, for kéeping a common Alehouse, of his owne authoritie, shall remaine in prison three daies, &c. without Baile or Mainepriſe, 6. Ed. 6. cap. 25.

Bastard. 4 And the reputed Father or Mother of a Bastard childe, that wil not performe the order set downe by two Iustices of the Peace thereto authorized shall be committed, & shal remaine in prison without Baile or Mainprise, till hée or shee will be bound, &c. 18. Eliz. cap. 3. and 27. Eliz. cap. 11. 1. Iac. cap. 25.

The most of the rest shall onely bée pointed out, that the Iustices may in a sort be warned of them, thus shortly.

Prophecies. 5. Eliz. cap. 15. touching *Prophecies*,
Witchcraft. 1. Iacob. cap. 12. concerning *Witchcraft*.
Periurie. 5. Eliz. cap. 14. of *Periurie*.
Seruice. 1. Eliz. cap. 2. touching *Common praier*.
Schoolmaster 23. Eliz. cap. 1. touching *Scholemasters*.
Preachers. 1. Mar. cap. 3. of *disturbing Preachers*.
Tithes. 27. Hen. 8. ca. 20. & 32. H. 8. c. 7. of *Tithes*.

2. Edw.

2 Edw. 6. cap. 2. of *Souldiers* selling harneſſe. — Souldiers.
22 Hen 8. cap. 5. of *Collectors* for *Bridges* — Bridges.
33 Hen 8. cap. 9. of *Aliens*, conueying *long Bowes*. — Bowes.
8 Eliz. c. 3. of *tranſporting ſheepe*. — Sheepe.
5 Eliz. cap. 21. of taking *Fiſh, Deere, Hawkes*. — Hawkes.
5. Eliz. cap. 5 of *eating fleſh*. — Fleſh.
9 Hen 5. cap. 8. Parl. 2. of *falſe Weights*. — Weights.
1 Mar. cap. 12. & 1 Eliz. cap. 16. of *Rebellious Aſſemblies*. — Aſſemblies.
2 Hen. 5. cap. 8. of great *Riots*. — Riots.
23 Hen 8. cap. 2. of *Collectors of Gaole money*. — Gaole money.
35 Eliz. cap. 1. touching *Recuſants*. — Recuſants.
5 Rich. 2. c. 2. of *Forcible holding*. — Force.
13 Eli. c. 21. of *Purueiance* neere to the *Vniuerſities*: and 23. Hen. 6 cap. 14. of *Purueiors* of noblemen. — Purueiors.
1 & 2 P. & M. c. 5 of *carying corne*. — Corne.
43 Eliz. ca. 2. for refuſing to contribute to the *Poore*, or to accompt, &c. — Pooze.
39 Eliz. cap. 11. touching *Logwood*, — Logwood.
39 Eliz. cap. 10. vpon reſtraint of *Malting*. — Malt.
1 Iac. c. 27. for deſtroying *Feſants, Hares, &c.* — Felants, &c.
1 Iac. c. 31. for refuſing to pay taxes to relieſe of perſons infected with the *Plague*. — Plague.
3 Iac. c. 4. for refuſing to take the oath thereby appointed for *Recuſants*. — Recuſants.
3 Iac. c. 5. for refuſing by a *Recuſant* to declare what Armor he hath, or diſtributing the deliuery thereof.

Hunting. 3. Iac. ca. 13. for vnlawful *Hunting* in inclosed grounds.

Oath of Allegeance. 7. Iac. c. 6. for refusing the *Oath of Allegeance.*

Hawking. 7 Iac. 11. for *Hawking*, and destroying of Partridges.

And so, if their be any other few, wherein Justices of the Peace may not grant Baile, though otherwise they haue to deale: for all others (that be not of that sort) I do willingly pretermit.

Now for an end of Bailement, I will shew you one forme of a baile, and another of the Liberate.

Kane. *MEmorandum quod xx. die mensis Iulij, anno regni Domini nostri Iacobi, &c. Venerũt coram nobis* Thom. Robertes, & Henric. Lindley, *duobus Iusticiariorum, &c. assignatorum, apud H. in comit' prad' A. B. & C. D. de E. in dicto comit'* Yeomen, *& ceperunt in ballium, vsque ad proxim. goale deliberationem in dicto comitatu tenendam, quendã F. G. &c.* Labourer, *captum & detentum, in prisona pro suspitione cuiusd' Felonie &c. Et assumpserunt super se, scilicet cuilibet predict' A. B. & C. D. sub pœna 20. li. bonæ & legalis monete Anglie, & predict' F. G. assũpsit pro seipso sub pœna 40 lib. similis monet' de bonis & catallis, terris & tenement' eorum quorumlibet, & cuiuslibet eorũ ad opus dicti Domini regis, Heredum & successorum suorum leuandarũ si prefatus F. G. ad eand' proximam Gaole deliberationem personaliter non comparebit*

rebit coram Iusticiarijs dicti domini Regis ad dictam gaolam deliberandum assignatis ad standū recto de Felonia predicta, & ad respondendū dict. dom. Regi tunc & ibidē de & super omnibus quæ illi obijcientur: Datum sub sigillis nostris, die & anno primum supradictis.

IOhn Bishop of Rochester & Timothy Low, two of the Iustices of &c. To the keeper of his Maiesties Gaole in *Maidstone*, &c. greeting: Forasmuch as F. G. &c. labourer, hath before vs found sufficient mainprise to appeare before the Iustices of the gaole deliuery at the next general gaole deliuerie to be holden in the said County, there to answere to such things as shalbe thē on the behalfe of our said Soueraigne Lord obiected against him, and namely to the felonious taking of two sheepe (for the suspition wherof he was taken, & committed to your said Gaole) we command you on the behalfe of our said Soueraigne Lord, that (if the said F. G. doe remain in your said gaole for the said cause, and for none other) then you forbeare to grieue or detaine him any longer, but that you deliuer him thēce, & suffer him to goe at large, and that vpon the paine that will fall thereon. Yeouen vnder our Seales, this 20. day of Iuly, &c. The Liberate.

The authoritie of some two Iustices of the peace goeth yet further: For two Iustices of ỹ Peace (ỹ one being of the Quorum) may prohibite and remoue common Ale-selling, & may Ale-house.

also allow the same, taking bond with sureties by Recognisance for good rule, to be kept in such Alehouse, &c. by their discretiō. And they may also commit and imprison (for three daies) those that kéepe common Ale-selling of their owne heads, against prohibition, or without allowance therof, and may after take Recognisance of them with two sureties that they shall kéepe none, 5. Ed. 6. cap. 25.

And here séeing that the order of the conditions of these bōds is partly referred to discretion, I will (for the better brideling of these nurseries of naughtinesse) leaue with you ỳ forme of them, which I haue knowne practised by ỳ honourable Iusticer, the late Lord William Cobham, Lord warden of the fiue Ports, L. Chamberlaine of the late Quéene Eliz. household, and one of her priuy Counsell.

Alehouses.

THE Condition of this Recognisance is such: whereas the within bounden A.B. is admitted & allowed by the within named Lord *Cobham*, and *I. Leueson* Knight, (two of the Queenes Maiesties Iustices of the Peace within the Countie of *Kent* within written) to keepe a common Alehouse, or Tipling house, & to vse common selling of Ale, or Beere, onely within the now house of him the said A.B. (and not elswhere) scituate in the high stréete of the Towne of M. within written, and called the signe of the Hart: If therefore, he the said A.B. during such time

For euery place is not méete.

time as he ſhall keepe ſuch common Alehouſe there, ſhall not ſuffer any vnlawfull play, at the Tables, Dice, Cardes, Tenniſe, Bowles, Cloſh, Coytes, Logets, or other vnlawfull games to be vſed in his ſaid houſe, or in his Garden, Orchard, or other his ground, or place: Nor dreſſe, or cauſe, or ſuffer to be dreſſed any fleſh to bee eaten vpon any day forbidden by the Lawes or Statutes of this Realme of England: Nor wittingly & willingly admit, or receiue into his ſaid houſe or any part therof, any perſon notoriouſly defamed, of, or for theft, incontinency, or drũkenneſſe, or that ſhalbe before hand notified to him the ſaid A. B. by the Conſtable or Borſholder of M. aforeſaid, for the time being, or by the Deputy of thẽ, to be an vnmeet perſon to be receiued into a common Alehouſe: Nor keepe or lodge there, any ſtrange perſon (aboue the ſpace of one day and one night together) without notice thereof firſt giuen to the Conſtable or Borſholder, or the Deputie of the one of them there: And finally, if the ſaid A. B. during all the time that hee ſhall keepe common ſelling of Ale or Beere in the ſaid houſe, ſhall & will there vſe and maintaine good order & rule: then this preſent Recogniſance, &c. or elſe &c.

In ſome Shires, the Iuſtices of the Peace do condiſcend vpon certaine Articles, framed by their diſcretions, and generally to be propounded to all common Ale-ſellers, taking the bond for performance of the ſame Articles, a

copy whereof they do vsually deliuer to euery of the, which maner is auowable also, though not so assured as the former.

Weights and measures.

Two Iustices of the peace (so that the one be of the Quorum) may (by examination, or Enquirie) heare and determine the faults of head officers in Cities, Boroughes, and Market Townes, that do not twise yearely view and examine Weights and Measures, and breake and burne the defective: as also the defaults of buyers and sellers by other weights and measures then they ought to do: and may breake and burne the defective weights and measures, and amerce & fine the offendors by their discretion, and make proceste against them as if they were endited of Trespasse against the peace, 11. H. 7. ca. 4. & 12. H. 7. c. 5.

Oath of Undersheriffe.

Two Iustices of the peace (the one being of the Quorum) may take the oath of the Undersheriffe of their County (before that he meddle with y exercise of that office) as wel touching the supremacie declared in the act, 1. Eliz. as touching his office, set forth 27. Eliz. cap. 12. And the like may they doe, for the like oathes of Bailifes of Franchises, Deputies and Clarkes of Sheriffes, and Undersheriffes, and of euery other person that shal take vpon him to intermeddle with the returning of Iuries, or with the executio of proceste in any Court of Record, 27. Elizab. cap. 12.

Hospitall.

The Bishop and his Chancellor, shal cal the two

two Iustices of the peace next inhabiting to any Hospital, to assist them in taking ỹ account of such as haue had the collection of the reuenues and profits of such Hospital: and they three may charge the accomptãt (vnder penaltie to lose such summe of money as they shall thinke meet) to account, and not to delay it, & forthwith to employ the surplusage to the vse of the Hospitall, 14. Elizab. cap. 5. & 39. Eliz. cap. 18.

Bastard child.

Two Iustices of the peace (the one being of the Quorum) in, or next to the limits wher the parish Church is, in which a bastard child (left to the charge of the Parish) shalbe born, ought to take order by their discretion, aswel for the relefe of the parish, and keeping of childe, as also for the punishment of the mother, and reputed father thereof, 18. Elizab cap. 3. 1. Iac. cap. 27.

Tithes.

Two Iustices of Peace (the one beeing of the Quorum) vpon complaint by any competent Iudge of Tithes, for any misdemenour of the defendant in a suit of Tithes, may cause him to be attached, or commited to ward, till he finde surety vnto them by Recognisance to the Kings vse, to obey the Process & sentence of that Iudge, 27. H. 8. cap. 20. & 27. Elizab. cap. 11.

Tithes.

And also vpon complaint in writing by an Ecclesiasticall Iudge, that hath giuen definitiue sentence in case of Tithes against one

(which wilfully refuseth to pay the Tithes, or summes of money so adiudged) two such Iustices may cause the party to be attached, and Committed to the next Gaole: till he find such surety (as is afore said) to performe that sentence, 32. H. 8. ca. 7.

Assesse the townes.

After execution had for the partie robbed against the men of the hundred, and vpon complaint made by them so charged, two Iustices of the peace (one being of the Quorum) of the same county, inhabiting within the said hundred, or neere vnto it where any such execution shall be had, may assesse & tare, ratably and proportionably by their discretion, all & euery the Townes, Parishes, Villages, and Hamlets, as well of the said Hundred, as of the Liberties within the same towards an equall contribution to be had for the releife of them, against whom such execution was had, 27. Eli. cap. 13.

Highwaies.

Two Iustices of peace (whereof one to be of the Quorum) which were present at the Session, wherein any person was conuicted for any offence against the Statute of Highwaies, within the Weald of Kent, Surrey, or Sussex, may make Warrant for leuying the forfeits thereof, to any officer: and they also may appoint by their discretion such waies and meanes to leuie the doubles for not paying those forfeits within xx. daies next after lawfull demand of the same by such Officer, 39. Eliz.

Eliz. cap. 19.

Any two Iustices of peace haue power to heare and determine al causes, that shal growe in question by the Statute of Rogues 39. Eli. cap. 4. 1. Iac. c. 25. Rogues.

Two Iustices of Peace, of, or nére the place to which a Souldier or Mariner commeth with the Testimoniall of one Iustice of Peace, shall take order by their discretion for setting to worke, or releeuing of him, if he cannot of himselfe get worke there, or employ himselfe in lawfull course of life, 39. Eli. cap. 17. Souldier, or Mariner.

Two Iustices of Peace dwelling next any Citie or Towne, where any retailer of wollē Cloth shall present vnto them any defective cloth against this statute (being cōferred with the statute 4 & 5. Ph. & M. cap. 5.) shall cause ỹ same to be cut into three equal parts, whereof the one to be to the King, the other to the Presentors, and the third to the Iustices thēselues, 5. E. 6. c. 6. Cloth.

No Fisherman shall be taken to serue as a Mariner by the Kings Commission but by the choise of two Iustices of the Peace, adioyning to the place where he is to be taken, 5. El. cap. 5. Fishermen.

Two Iustices of the peace (not being of kinred, alliance, counsel, or fee, to the Lord or owner of a wood) appointed by the more part of the Iustices of Peace at their Sessions, vpon Deuide the fourth part of a Wood.

com-

complaint of the Lord made vnto them, may diuide and set out the fourth part of it, if the Lord and Commoners thereof (being first called before them) cannot agree vpon it, 35. H. 8. cap. 17. and 13. Eliz. c. 25.

Amercements in the County Court.

Two Iustices of the peace, whereof the one to be of the Quorum, (appointed by the *Custos Rotulorum*, or by the eldest of the Quorum, in his absence) are to ouersee, and controll the Shirifes bookes and amercements: and the estreats of the said amercements, are to bee made by the Indenture between them, & the Sherife, or Vndersherife: & to be sealed with their seales: And they may vpon suggestion make proteste as in an action of Trespas against the offendors of that Statute, to answere before them, 11. H. 7. c. 15.

The Poore.

Two, or more Iustices of the peace (whereof one to be of the Quorum) dwelling in, or neere y Parish, or diuision where the Parishes, must nominate yerely in Easter weeke, or within one Moneth after Easter vnder their hands and Seales, 4. 3. or 2. substantiall householders in euerie Parish to be Ouerseers of the poore of the same parish. And the Churchwardens and Ouerseers of euery Parish, shall with the consent of two or more such Iustices of Peace set the poore on worke, & take euerie Inhabitant & occupier of land there towards the same, and to bind children Apprentices. And the office of the Churchwardens & ouer-

seers

ſers for not executing their office, is to be allowed by two ſuch Iuſtices of Peace. And ſuch two Iuſtices of Peace are to take their accompts yearely, and to commit them that refuſe to accompt.

And two ſuch Iuſtices of Peace may taxe any other of other pariſhs within the Hundred, to contribute to a poore pariſh. And may make out their warrants to the Churchwardens and Ouerſeers of euery pariſh, to leuie the Taxations, by diſtres and ſale of the offendors goods: And in defect of diſtreſſe, may commit the partie refuſing to contribute, to the common Gaole, without Baile or mainprize.

And they may doe the like concerning Penalties and forfeitures committed, 43. Eliz. cap. 2. 1. Iac. cap. 25.

Wages.

The offences of Clothiers, or other, in not payeing ſo much wages to their Weauers, Spinſters, &c. as ſhall be rated according to this Act, being confeſſed by the offendor, or proued by two ſufficient witneſſes before two Iuſtices of the Peace (whereof one to be of the Quorum) the perſon offending ſhall forthwith ſtand committed thereof: and the forfeiture of ten ſhillings giuen to the partie grieued, may be leuied by diſtreſſe and ſale of the offendors goods, by Warrant from the ſame Iuſtices, 1. Iacobi cap. 6.

The

Apprentices.

The yearely accompt (in Easter weeke, or within a Moneth next after Easter day) by the Parsons or Vicars, Constables, Churchwardens, Collectors, & Ouerseers of the Poore, in Townes or Parishes not incorporat, (appointed by this Act to haue the imploying of money giuen for binding out of Apprentices) may be made before two Iustices of the peace dwelling in or next to such Townes or Parishes, 7. Iac. cap. 3.

Require the oath of Allegeance of any one of xviij. yeares of age.

Two Iustices of the peace (the one being of the Quorum) may require any person of xviij. yeres of age or aboue, conuict or indicted for Recusancy for not repayring to diuine seruice, or which hath not receiued ỹ Sacramẽt twice within the yeare then next past: Or any vnknown person passing through the county, confessing or not denying (being examined on oth) him or her self to be a Recusant, or ỹ he or she receiued not ỹ Sacrament as aforesaid (other then Noblemen or Noblewomen) to take the oath of Allegeance in this statute appointed, and are to certifie in writing at the next quarter Sessions the christen name, surname, and place of abode of euery person so taking the said oath, to be kept amongst the Records of the same Sessions. And such two Iustices of the Peace may commit the person refusing to be examined vpon oath, or to take the said oath, to the common Gaole without bayle or mainepryse, till the next Assises or quarter Sessions

Sessions. 3. Iac. c. 4.

And any two Iustices of the Peace (whereof one to be of the Quorum) may require any person of the age of eighteene yeeres or aboue (vnder the degree of a Baron or Baronnesse) to take the oath of Allegeance: And on refusall may cõmit him to the Gaole to remain there without baile, or mainprise, vntil next Assises, or generall quarter Sessions, 7. Ia. ca. 6. Oath of allegeance.

And two such Iustices, may commit to prison, without baile or mainprise, a married woman (vnder the degree of Baronnesse) conuicted as a Popish Recusant for not comming to Church, which doth not within three moneths after such conuiction conforme her selfe, and repaire to Church and receiue the Sacrament, 7. Ia. ca. 6. A maried woman a Recusant.

And here also, is place for those priuate Acts, wherein any power is giuen to two Iustices of the peace, as:

5. E. 6. cap. 24. For the making of Couerlets & Dornikes in Norwich. Norwich.

35. H. 8. cap. 11. For wages of the Knights of Parliament. Wales.

11. H. 7. ca. 9. For Recognisances to be taken of Lessees in Northumberland. Northumberland.

2. & 3. Phil. & Mar. cap. 15. and 13. El. ca. 21 & 27. Vniuers.

& 27. Eliz. ca. 11. 1. Iac. ca. 25. For prohibition of purueiances within fiue miles of either of the Vniuersities.

Kent, and Sussex.

14. H. 8. ca. 6. & 26. H. 8. ca. 7. For laying out new highwaies in Kent and Sussex.

Cardiffe.

23. Eliz. ca. 11. For the repairing of Cardiffe Bridge.

London. Westminster.

35. El. ca. 6. Touching new buildings & Inmates, in, and neere London & Westminst.

Wilton bridge

39. El. ca. 24. For the making of the bridge at Wilton ouer Wye in the County of Heref.

Nonsuch.

3. Iac. ca. 19. Nonsuch highway.

Chepstow bridge.

3. Iac. c. 23. For repaire of Chepstow bridge.

Vpton bridge

3. Iac. c. 24. For repaire of Vpton bridge.

Norfolke and Suffolke.

7. Iac. c. 20. For recouerie of marsh grounds in Norfolke and Suffolke.

What things, three, or moe Iustices of the Peace may doe out of the Sessions.

Cap. III.

THE authoritie aswell of any two Iustices of the Peace generally, as of some certaine two Iustices specially, being thus at some length vnfolded, it remaineth that (for an end) we speake

speake somewhat of three, and the greater number.

Three Iustices of the peace (one of them being of the Quorum) may discharge out of prison any person cõmitted thither for his offence in not declaring to a Iustice (within 24 houres) that he was moued to ioine in any vnlawfull assembly contrarie to the statute, 1 M. 1 Parl. c. 12. & 1 Eliz. c. 17. — Vnlawfull assembly.

It is requisite, that the certificate (that is to be made to the head officer of a citie or towne corporate, where a child is to be put Apprentice to a Marchant, Mercer, Draper, Goldsmith, Ironmonger, Imbroderer, or Clothier that the father or mother of such child may dispend forty shillings freehold by yere) be vnder the hands and seales of three Iustices of peace where the lands lie, 5. Eliz. cap. 4. — Certifie for an Apprentice.

Foure Iustices of the peace with the assent in writing of the Bishop of the Diocesse, or of the Lieutenant or Deputie Lieutenant of the County, vnder their hands and Seales may giue Licence to a Recusant confined (by 35. Eli. c. 2.) to trauel about his necessarie businesse, according to the limitation of the same Licence (ỹ party licenced first taking his oath that he hath truly enformed them of the cause of his iourney, and that he shall not make any causelesse staie,) 3. Iac. ca. 5. — Licence a confined Recusant.

The

Money giuen to the Poore. Highwaies or bridges.

The Bishop and his Chancellor, and three such Iustices of the peace haue power to examine, how money or other reliefe (appointed by king H.8. or any other, to the vse of ỹ poore, or of amending of Highwaies or Bridges) is bestowed, and to call to account the detainors thereof &c. 14. Eliz. ca.5. & 39. Eliz. c. 18.

Depriue the Sacrament of the Lords Supper.

It seemeth, that three such Iustices of the peace may out of ỹ Sessions take information and accusation by the oathes of two honest persons against such as shall depriue the Sacrament of the bodie and bloud of our Lord & Sauiour Iesus Christ, against the statute, and examine them, what other witnesses were thẽ by: and to bind them all by Recognisance, to giue in euidence at the day of triall. 1.E.6.c.1 but enquire of this matter.

Foure Iustices. Bridges.

Foure Iustices of the peace (whereof one to be of the Quorum) may (where a decaid bridge is, & where it cannot be proued who, or what lands be chargeable to the repairing thereof) take the inhabitants, make collectors, and appoint ouerseeres, for the amendement of the same &c. 22.H.8.cap.5

Six Iustices Gaole.

Six Iustices of the Peace, may in sundrie shires take order for the common Gaoles, whereof the Sherife shall haue the custodie, and to the which murderers & Felons, &c. shal be sent: and may doe and performe diuers incidents thereto by the statutes 23.H.8.cap.2. 13.El.cap.25.

Six

Six Iustices of the peace (two of them being of the Quorum) may for a whole yeere after ỹ expiration of any commission of Sewers execute the lawes of the commissioners of Sewers, vnles that a new commission of Sewers be published within the yeere, 13. Eliz. c. 9. Sewers.

To this title also doe these particular Statutes belong.

13 Eli. ca. 23. & 23. Eliz. cap. 12. For pauing the streete by Algate. Algate.

34 H. 8. For establishing Iustices of the peace in Vales, &c. Wales.

27 Hen. 8. c. 5. For Iustices of peace in Cheshire, &c. Chesshire.

23 H. 8. c. 2. & 5. Eliz. c. 24 & 13. Eliz. ca. 25. For the appointing and building of Gaoles in sundry shires. Gaoles.

18 Eli. c. 20. For amending of Bridges within fiue miles of Oxford. Oxford.

18 Eli. cap. 10. & 27. Ei. c. 26. For the reparation of the Ferrey called the Kings Ferrey in the Isle of Shepey in Kent. Shepey.

27 Eliz cap. 22. For Chichester hauen. Chichester.

3 Iac. c. 19. For the repairing of the highway from Nonesuch to Talworth in the Parishes of Ewel and Longditton in Surrey. Nonesuch.

3 Iacob. cap. 22. For pauing Drurie Lane and the towne of S. Giles in the fields in Middlesex. Drurie lane.

3 Iac. 23. For making vp & repairing Chep- Chepstow Bridge.

stowe Bridge.

Upton bridge. 3. Iacob. ca. 24. For reedifying a Bridge ouer Seuerne neere Vpton vpon Seuerne in Worcestershire.

Of the reward, and punishment of Iustices of the Peace, for things done, not done, or misdone out of the *Sessions of the Peace.*

Cap. IIII.

IF reward & punishment (as said Solon) all commonweales do consist: For as the care of equity and Iustice wareth cold, vnlesse there be reward only for vertue: So the negligẽce of euill men must néeds be corrected by seueritie and chastisement of paines.

Reward. And therefore, albeit the meaning of our Parliaments hath alwaies beene, that chaile should bee made of such persons for this office of the peace, as néeded no reward for their trauel in that behalfe: yet to the end that they should with the more alacritie & cheerfulnesse proceede in their affaires, the lawes doe now and then cast them a trifle, rather to let them know that they doe behold their well doing, then that themselues do stand in neede of any recompence.

Heere

Hereupon euery Iustice of peace (sitting in execution of the Statute of Labourers and Seruants) shall haue v.s. the day (for three daies together) out of the forfeitures that grow by the same statute, 5. El. cap. 4. Seruice.

And if any person commaunded by two Iustices of Peace (to appeare to be made an ouerseer to see the statute of Cloth-making kept) doe without reasonable excuse refuse to come, and to take vpon him that office, he is to forfeit for euery such refusall forty shillings, & therof those Iustices are appointed to haue the one halfe by the statute, 3. Ed. 6. c. 2. Ouerseers Cloth.

Those two Iustices of the peace also next adioyning, to whom any Cloth (faultie against the statutes) shal be presented, may cut the same into three equall peeces, & shall haue to themselues the one of the same, by the Act 5. Ed. 6. ca. 6. & 4. & 5. Phil. & Mar. cap. 5. Faultie cloth.

And euery Iustice of the Peace is allowed to retaine to his owne vse, the one moitie of al strangers goods, calling themselues Egyptians, that he shall lawfully seise, by vertue of the statute 22. H. 8. cap. 10. Egyptians.

The Iust. or Iustices of the Peace, that doe ioyne with the Clarke of the Peace, in taking the Conusance of an Indenture of bargaine & sale of land to be inrolled, shal haue xy. s. therfore, if the lands exceed not in value xl. ℔. by the yeere, and ij. ℔. vj. s. if it do exceed that value, by the statute 27. H. 8. cap. 16. Inrolement of bargaine & sale.

Riot. The Kings Highnesse shall beare the costes that the Iustices of peace shall sustaine in the execution of the statutes, 13. H. 4. cap. 7. of Riots, &c. 2. H. 5. c. 8.

Forcible Entrie. And the Iustices of the Peace shall make execution of the statute of forcible entries at the costs and charges of the partie grieued, 8. H. 6. cap. 9.

Alehouse. Twelue pence is giuen to the two Iustices of peace for taking euery Recognisance of him that is allowed to keepe a common Alehouse, by the statute 5. E. 6. c. 25.

Helpe against contentious suites. And because many contentious persons by commencing of causelesse suites against Iustices of Peace and others for execution of their offices, haue gone about to discourage them from doing their Offices; they are (for their ease in pleading) allowed to plead the generall issue of Not-guilty, and to giue the speciall matter in euidence; and for their wrongfull veration double costs, 7. Iac. ca. 5.

Punishment. On the other side also, the Statuts do now and thē correct the dulnesse of these Iustices, with some strokes of the Rodde, or spur. And therefore generally, if a Iustice of peace will not giue remedy to a party grieued in any thing ỳ he may heare, determin, or execute: thē vpon complaint to the Iustices of assise, or to the Lord Chancellor, he shall not only be put out of the cōmission by the Lord Chancellor, but shal also be punished according to his demerites,

rites, 4. H. 7. cap. 12.

And particularly, euen at the firſt it was ordained, that if the Wardens of the peace did not looke vnto the execution of the Statut againſt ſuch as ſhould ride or goe armed in any place, putting the country in feare, then the Juſtices aſſigned by the King, ſhould enquire of their default, and puniſh them, Stat. North. 2. E. 3. cap. 3. Ride armed.

The Statute of Riots, &c. 13. H. 4. cap. 7. layeth C.li. forfeiture vpon thoſe Juſtices of Peace that ſhall dwell nigheſt to the Riot, &c. if they doe not put that Statute in execution. Riots.

And thoſe Juſtices of the Peace, and ſherife or Vnderſherife, which in ſending their Certificate to the King and his Counſel, (concerning ſuch Riot) doe not withall certifie the names of the maintainers and imbracers in that behalfe, with their miſdemeanors that they know, ſhall euery of them forfeite twentie pounds, vnleſſe they haue reaſonable excuſe for not certifying the ſame, 19. H. 7. cap. 13. Certificate.

That Juſtice of the Peace which ſeiſeth the goods of any Egyptians, and doth not incontinently reſtore ſuch part thereof as ſhalbe proued before him, to haue bene craftily or feloniouſly taken, ſhall forfeit the double thereof to ſuch prouer, 23. H. 8. c. 10. Egyptians.

If any Juſtice of the Peace ſhall take any Bond.

Blood.

bond (made for cause touching the King) in name of the Justice himselfe, and not by the words, *Domino regi*, hee shal be imprisoned for so doing, 33.H.8.c.38.

Rebellious assembly.

That Justice of peace that doth not (after request thereof made) giue attendance vpon y Kings Lieutenant of the shire, for the suppression of any Rebellion, or vnlawfull assembly, shall suffer a yeares imprisonment, vnlesse there because of reasonable excuse, 1. Mar. Par.1.c.12.& 1.El.c.17.

Peace.

If any Justice of peace shall be proued to be in default about the execution of the Act of the peace, by two sufficient witnesses before the Justices of assise, at their next general Gaole deliuery, he shall lose v.l. 14.El.cap.5.

Guns and Crossebowes.

The next Justice of Peace which faileth in presenting the name of him that presenteth it to him, according to the Statute of shooting in Crossebowes or gunnes, shall forfeite twenty shillings, 7.E.6.ca.14. But inquire of the continuance of this, as before in the 7. Chapter of the 2. Booke.

Agnus dei.

That Justice of peace, which doth not (within fourtæne daies after matter vttered to him concerning any Agnus Dei, &c.) signifie the same to some one of the Kings priuy Counsel, shall incur the points of the Acte, 16.R.2. of Præmunire, 13. Eli.cap.2. And that Justice of the Peace, which after discouerie made vnto him by any person, that any Iesuite, Seminarie,

Iesuits.

or

or other ecclesiasticall or religious persõ (professed by any authority frõ the Sée of Rome) is abiding within any the Kings dominions, shal not within 28. daies then next following, giue information therof to some of the Kings priuie Councell, or to one of the Presidents in Walles, or in the North, shall forfait for euerie such offence, 200. markes 29. Eliz. c. 2.

Certificate into the Exchequer.

That Iusticeof the peace which (hauing taken any examinatiõ concerning plaints in the Sherifes Court) doth not certifie the same into ỳ Exchequer within a quarter of a yere after shall lose xl. s. for his default, 11. H. 7. c. 15.

Baile and certifie.

Those Iustices of the peace, which do grant any Baile contrarie to the Law, and doe not certifie the Baile and examination of the Felonie according to these statutes, shal pay such fine as the Iustices of Gaole deliuerie shall thinke meet, 1 & 2 P. & M. c. 13. & 2 & 3 P. & M. cap. 10.

Physitians

Euerie Iustice of peace, that (dwelling within seuen miles of London) doth not (vpon request) assist the colledge of phisitions of London in the execution of the statute, 32. H. 8. c. 8. shall be punished, as one that runneth in contempt of the king, 1. Mar. c. 9.

Northerne Clothes.

Euerie Iustice of peace, that shall make default in the due execution of this statute made against the deceitfull stretching of Northerne Clothes and Kersies, made beyond the Riuer of Trent, shall lose v. l. 39. Eliz. cap. 20.

Bridges in Monmouthshire.

There is also a Fine of xx.l. laid vpō euery Iustice of the peace in Monmouthshire, for his negligēce in not repairing ỹ bridges of Newport, and Carlion there, 39. Eliz. c. 23.

Not xx.li. in lands.

And how that Iustice of the peace shalbe punished, that shal take vpon him the office, not hauing yeerely xx.l. in lands, it hath appeared already, ca. 6. in the first Booke.

Ouerseers of the poore.

If there be no nomination of Ouerseers of the poore yerely according to the Statute, euery Iustice of the peace dwelling within the diuision shall forfeit to the poore v. l. 43. Eliz c. 2. 1. Iac. cap. 25.

The Epilogue.

The Epilogue.

THus much (so shortly as I could) I thought fit to say, concerning the authoritiy of Iustices of the Peace, without the Sessions: wherein I haue rather sought to admonish thē (by a sleight view & rehersall for the most part) what things they haue to handle, thē labored to accomplish them (with full skill) how to administer, & execute them all.

Neither doth that skill and knowledge lie in my power, but in their own diligence; and must therefore be won by a continuall studie & painfull meditation of the Statutes at large: towards their helpe and furtherance wherin, I long since intreated Master *Iohn Tindall* of Lincolns Inne, to take the paines to cul out all those Statutes by themselues, which were in force, and wherwith-

all

all Iuſtices of the Peace had to meddle: not altogether beheading them of their preambles: Nor any whit curtailing them of their words: Nor otherwiſe diſmembring or ſcattering their parts in ſunder; But laying forth the bodies of them, whole & at large, vnder their proper Titles, together with the materiall parts of their preambles: and not without any of their prouiſoes: Therewithall amending the corruptions of the Engliſh tranſlation out of the Latin & French: and finally adding vnto them (where neede is) ſome notes of helpfull direction. Which things no other man (that I know) hath hitherto aſſayed. Al which is ſo marked out in Maſter *Raſtals* Abridgement, as euery man (that will) may eaſily enioy the benefit. And I doubt not, but that (for the abſolute accompliſhment of ſo ſeruiceable a worke) God wil hereafter giue him both minde and meanes, to conferre and rectifie the whole volume of thoſe imprinted Lawes, according to the originall & Autentique Records: then the which I know not any labour, either more auaileable to the Students of the Law, or more neceſſarie for ſuch as haue any charge thereof in the adminiſtration of the Common wealth.

The

The fourth Booke intreating of the Seſſions of the Peace, and of things incident, or belonging thereunto.

The Proheme.

IT may peraduenture ſeeme, that hauing already ſtood long in matters that were of the leſſe importance, & ſuch as might be diſpatched at home *ſine ſtrepitu*, I wil be now both long and tedious when I beginne with thoſe of greater weight, and which do require the ſolemn Bench, and figure of iudgement.

But, as at the firſt I thought it meete to helpe moſt, where moſt need was: I meane, where one or moe Iuſtices (preſſed with the neceſſitie of time, & deſtitute of the aſſiſtãce of their learned companions) were to adminiſter their office at home: So now, knowing that at the Seſſions of the Peace, there be commonly many Iuſtices in number, and (amongſt them) ſundrie ſo well inſtructed in Law, as in being too buſie with that which belongeth thereto, I ſhall as the ſaing is, but *ſet a candle im the Sunſhine*, & rather bewray want in my ſelfe, then bring helpe or light vnto them: I purpoſe to runne ouer this reſidue more ſwiftly, except in a few places, where either the profit or neceſſity, (or both) of the matters themſelues ſhal begge licence, and procure pardon for me.

The

THE DESCRIPTION OF THE *SESSIONS* of the Peace.

Cap. 1.

AS a man that hath receiued hurt in his body by a stroke whereof he bléedeth freshly, will be contented for the present, to admit the help of any meane Leech or Surgeon (cõming next to hãd) for ỹ stanching of his blood, & binding vp of the wound: and yet would more gladly haue vsed the cõference of diuers expert Surgeons for doing the same, if the danger of the hurt would haue granted the time that wil be lost in calling thẽ together: euen so the cõmon Councell of this Realme, finding ỹ the body thereof may be déepely wounded in some one member, and perceiuing that certaine euils must be resisted at the very first, (least otherwise they grow past help, and war incurable) hath many times thought it good to cõmit to one, or to a few Iustices of ỹ peace (for ỹ they be ready, and at hand) the stopping of the blood (as it were) and first dressing of the wound, by repressing of force, & other outrages, that doe sodain-

sodainly arise: and hath yet neuertheles (when as the time and matter will permit) politickly established an assembly, and conference of all the Iustices at certain times in a full court, and open Session.

For it is true, that if ỹ publike peace should not be preserued by taking of Suertie, before it be broken: If such as doe violate the common tranquillity, should not be committed to prison when they haue broken it: If seditious talebeares (the sowers of rebellion) should not be snapt vp and restrained: If finally, riotous assemblies should not be dispersed, and forcible inuasions withstood, and remoued: the hurt body would bléd to death, and too late (& all in vaine) would it be to summon a Session for remedie. But when the bridle is once cast vpon the head of the Offendor, then, and not before is the matter ready for the Sitter.

The description of a Session of the Peace.

I will (for this time) call a Session of the peace: An assembly of any two (or mo) Iustices of the Peace (one of them being of the *Quorum*) at a certaine day (and place within the limites of their Commission) appointed to enquire by a Iurie (or otherwise to take knowledge) & thereupon to proceed to heare and determine according to their power, of causes within their commission, and the statutes referred to their charge.

And this description excludeth al méetings, that are onely for Enquirie: in so much as to enquire, & not to heare and determine, is but a halfe

halfe doing, and not worthy the name of a Session of the peace.

It shutteth out also such assemblies as doe consist of two Iustices of the peace, meeting only to enquire, heare, and determine of a Riot, by vertue of the Statute 13. H. 4. For that they may do (as also the former) though neither of them be of the Quorum. So that it is but a particular seruice, laid vpon two Iustices and the Sherife by this Statute: the Record whereof shall not (as I thinke e haue said alreadie) remaine amongst the Records of the Sessions of the Peace.

And therefore, the assembly that I meane, is a meeting of such Iustices for the execution of their generall authoritie.

And albeit that happily some one matter be the motiue and chiefe cause of their comming together: yet if they deale with that and others (within their Commission, & charge) let it (on Gods name) passe for a Session of the peace, according to my meaning.

The Sessions of the Peace then, be grounded chiefly vpon the words of the second *Assignauimus* in the Commission: the which (being, *vos, & quoslibet duos vel plures vestrum, quorũ aliquẽ, &c.* doe verie necessarily require the presence of one of the Quorum.

A partition of all that which followeth in this booke.

And these three things namely to Enquire, heare and determine, do (in effect) comprehend whatsoeuer belongeth to the Sessions: So that euery

euery thing wherof I shall hereafter intreate, will concerne, either the Information of the Iustices by enquirie, and other meete meane: Or the Hearing and the tryall of the cause it selfe: Or the Iudgement and execution (which is the Determining) giuen & done vpon it. And therefore, in this path (God willing) will I tread, and by it you shall trace me to the end.

Who shall appoint the Sessions of the Peace: and how, and where.

Cap. II.

Knowledge of causes at the Sessions.

THe Iustices of the Peace, doe (at their Sessions) take knowledge of causes within their Iurisdiction, either by the oath of Inquirours, or by the presentmēt or declaratiō of other men: And this Inquirie is first prepared, by the apparance of the Officers and Country, and by the Articles giuen in charge: and then performed, by the presentment (or enditement) of them that had the charge to make it.

Preparation for Inquirie.

Now, albeit that these Sessions be commonly, and most orderly, summoned by a precept in writing: yet is it not altogether of necessity (for the making of a lawfull Sessions) to haue it so. For if competent Iustices of the peace do get men to serue & therupon do hold a Session (with-

without any precept before directed) al presētments made before thē by twelu lawful men, shall be of force in law: but no man shall lose any thing for his default of apparance there, because no man had notice of their Sitting, Marr.

Neuertheless, because the common & more allowable maner is, to cal the officers & counte together for this seruice, by a Precept to ỹ Sherife, wherin both the diposition of the Iustices is notified for the holding of a Session, & the seruice & attendance of those others is cōmanded to bee thereat with them (which also they be well warranted to direct vnto him, by the 2. *Assignauimus* of their Commission, and by the *Mandamus* that followeth therupon) I will lay downe the forme thereof, which hath beene like to this.

Precept to summon the Sessions of the peace.

EDwardus Hoby *miles*, & Radulphus Hayman *armiger*, *duo Iusticiar. dom. reg. ad pacem in comitatu Kanciæ conseruādam, necnon ad diuersa felonias, transgressiones & alia malefacta in dicto comitatu perpetrata, audiendū & terminand' assignatorum, vicecomiti eiusdem comitatus Salutē: Ex parte dicti domini reg. tibi præcipimus, quod non omittas propter aliquam libertatem in ballina tua, quin eam ingrediaris, & venire facias coram nobis, vel sociis nostris Iusticiarijs pacis &c. (tali die &c.) proximè futuro apud* Maidstone *in comit. predicto tam 24. probos & legal' homines de quolibet hūdre-*

do

do in ballina tua quàm 24. milites & alios probos & legales homines de corpore comitatus tui (tàm infra libertates quam extra) quorum quilibet habeat 40 sol. redditus terrarum & tenementorum liber per annũ ad minus: ad inquirendum tunc & ibidẽ super his quæ ex parte dicti domini Regis eis iniungentur. Scire facias etiam omnibus Coronatoribus comitat' tui, Seneschallis, Constabularijs, Subconstabularijs, & Ballinis libertatum, infra Hundreda & libertates prædicta, quod sint tunc ibi ad faciẽdũ & perimplend' ea quæ ratione officiorum suorũ sunt faciẽda. Proclamari preterea facias per totam ballinã tuã in locis idoneis prædictam Sessionẽ pacis ad diẽ & locũ predict' fore tenendã. Et tu ipse tunc sis ibidẽ, ad faciendũ, & excercendum ea quæ ad officiũ tuũ pertinent: & habeas ibi tunc, tam nomina Iuratorum, Coronatorum, Seneschallorũ, Cõstabulariorũ, Subcõstabulariorũ, & ballinorũ predict', quàm hoc præceptum. Datũ sub sigillis nostris apud Shoreland *in comit. prad. 16. die Martij, anno regni dicti dom. nostri Reg. Iacobi Dei gratia &c.*

The number of the Iustices.

This precept may be made (as here it is) by any two Iustices of the peace, so that the one of them bee of the Quorum, for two such may hold a Session of the peace, as it doth plainely appeare by the commission: and therefore (as M. Marrow saith) it sufficeth not to haue it runne vnder the name of the *Custos Rotulorum* alone, seeing that he hath no more authority in this behalfe, thẽ any one of his fellowes hath

hath: for the words of the said *Mandamus* in the Commission to the Sheriffe be *Coram nobis &c. venire facias, tot & tales &c.* Yea, if two such Iustices make a precept for a Session of the Peace, all their fellow Iustices cannot discharge it by their *Supersedeas*: but a *Supersedeas* out of the Chauncerie will discharge it; saith Fitzh.

And if one Iustice of the Peace alone will take upon him to holde a Session of the peace, (that was lawfully summoned by him and another such Iustice) and will make the stile of the Session in the names of himselfe and the other, all presentments so taken before him may be avoided: but if the Sessiõs be in truth holden by two sufficient Iustices only, and the stile (or title) thereof be made in the names of three, then all the presentments before them shal stand good. For it will not helpe the party to say, that one of the three was not there, whẽ it shall appeare that two of them (the one being of the Quorum) were present, which will suffice, Marrow.

The time.

Touching the time of holding the Sessions of the peace, I will forbeare to speake, till I shall come to diuide the Sessions.

The place.

But the place of holding them is arbitrable, and at the pleasure of the Iustices themselues, so that it be meet for accesse. And although the precept, do appoint the Sessions to be holden in some one towne by name, yet may the Iusti-

ces keepe it in any other towne, and all ỳ presentments shall be good that shall bee taken where they hold it: but then againe, no amerciament can be set vpon any man for his default of apparance there, because hee had no warning of it, Marr.

So if two such Iustices make a precept for a Session to be holden in one towne, and two other Iustices make another precept for another Session to be holden at an other town (or in an other part of the same towne) the same day: then the presentments taken before either of them shall be good, Marrow. And then so it seemeth, that he which serueth at the one Session (as a Iuror, or Officer) shall be excused for his default at the other: because as they both be the Kings Courts, and of equall authoritie, so hee cannot present himselfe in them both at once.

What

What persons ought to appeare at these Sessions, and therein of the *Custos Rotulorum*, the Records of the Sessions, & the Clarke of peace, & how the Iurors ought to be qualified and ordered, and of the priuiledge of the Sessions.

Cap. III.

FOr the better preparatiõ towards this Enquiry, let vs peruse the persons that are to attend and do seruice at the Sessions.

The Iustices and their equalitie.

The Iustices of the peace be so necessarie, as without them (though all others should appeare) no Session can be kept: and yet if any of them be absent, their fellow Iustices cannot amerce them, as the Iustices of Assise may do for their absence at the Gaole deliuery: for *Inter pares non est potestas*, & the authoritie of all the Iustices of the peace at the Sessions is equal, so that like power hath he which is not of the Quorum with him that is, except it be in speciall cases set forth in the Commission & statutes. And therefore it was holden (3. H. 7. Fitz tit. Iustice del Peace 3.) that if one which is not of the Quorum, will be so bold as to rebuke one that is of the Quorum, he and his cõpanions may not commit him to prison for it. Neither will any discréete Iustice take

libertie hereby to carpe or scorne any of his Collegues, because he is equall with them: but will rather draw from hence a lesson, to vse them with all lenitie and modestie, seeing that they be not inferior to him.

And albeit the power of these Justices be ioynt at the Sessions, yet (to some purpose) each one hath a distinct power by himself also. For, if one of them (sitting in this Judicial place) shall see a Riot, he may cause the parties to be arrested, and may also record the Riot, whereby they shall be so concluded, as they shal haue none answere to it: Fitzherb. titulo *Iustice del peace* 9.

The Recognisors. The Recognisors that stand bound to the keeping of the peace, and to appeare at the Sessions, and such like, bee commonly tied vnto the Quarter Sessions, whereunto I am not yet come: And those prisoners that are sent by Justices of the peace for Felony or manslaughter, or suspition thereof, or be let to Baile or Mainprise vpon any such offence, be (for the most part) reserued till the Gaole deliuerie, wherewith I haue not to do, The rest of that kind may be brought forth at euery Sessions of the Peace.

The prisoners.

But two sorts of men there are that owe their ordinarie attendance at the Sessions, that is to say, the Officers or Ministers of the Court, and the Iurors of the countrey.

Amongst

Amongst the Officers, the *Custos Rotulorum* hath worthily the first place, both for that he is alwaies a Iustice of the Quorum in the Commission, and amongst them of the Quorum, a man (for the most part) especially picked out either for wisedome, countenance, or credite: and yet in this behalfe he beareth the person of an Officer, and ought to attend by himselfe, or his deputie. The Custos Rotulorum.

For the words in the Commission be to him now by his proper name, *Quod ad dies & loca predicta, breuia, præcepta, processus, & indictamenta predict. coram te & dict. socijs tuis venire facias:* Whereas (vntill the 14. yeare of King Richard the second) that charge was generall to all the Iustices, and not laied specially vpon any one person in the Commission: as it doth appeare in the Tower, by the Records which I haue already touched.

This man (as his very name bewrayeth) hath the custodie of the Rolles (or Records) of the sessions of the peace: and whether the custody of the Commission of the peace it selfe do pertain to him alone, it hath béene made some question. Who shall keepe the commission of the Peace.

For Marrow saith, that séeing the other Iustices may hold a Session without him, it is méete they should then haue the Commission with them. But Chock in the booke (9. E. 4. 2.) holdeth, that a Iustice of the peace (in making any Iustification by vertue of his Office) nee-

deth not to shew the Cõmission of the peace: because (saith he) the kæping thereof belongeth to the *Custos rotulorum*: and for the same cause also, the Bailise of a Iustice of the Peace shall not be driuen to shew the Commission, as it sæmeth, 10.H.7.7.

And truely, since it is such an entire thing, as can remain but in the hands of one at once, it sæmeth most reasonable, that he that is put in trust with the rest of the Records, should be credited with the custodie of the Commission also.

The Records of the peace.

But vnder the name of the Recordes of the Sessions of the Peace, I do not comprehend al manner of Records concerning the Peace, but those only which ought to be at the Sessions of the Peace: as Bills, Plaints, Informations, Inditements, Presentmẽts, the Rolles of processes, Trials, Iudgements, Executions, and all other the Actes of the Sessions of the Peace themselues: And furthermore, the Ingrossement of the rates of seruants wages: all Recognusances of the Peace & good Abearing: Recognusances concerning Felonies, and Ale-house keepers, and such like as ought to be certified (or brought) to the Sessions of the Peace, must be numbred amongst the Records of the Sessions of the peace: for of all these there may be vse at the Sessions, and therefore the *Custos rotulorum*, or some for him, ought to bee ready there to shew them.

For

For which end I take it meete, that howsoeuer those Records haue heretofore been suffered to lie in the hands of the Clearke of the Peace, & by the death or remoue of him haue been to seek: yet now the inconuenience being found, & the Records themselues being grown to greater bulke, the same should be lodged in some speciall & proper roome vnder safe custodie, and not without an Inuentorie (or Register) indented, whereof the one part to remain with the *Custos Rotulorum*, and the other with the keeper of them.

Now, although it were before time at the libertie of a Iustice of the Peace to certifie a Recognisance of the Peace, to the *Custos Rotulorum* (as you may see 2. H. 7. 1.) Yet now by the statute (3. H. 7. c. 1.) he ought to certifie, send, or bring it to the next Sessions of ỹ peace, that the partie may be called, and to the end also, ỹ his default (if he make any) may be recorded: and by such Record of his default, hee is concluded to say, that he appeared there, 13 Edw. 4.

As for precepts for Suretie of the Peace, the speciall Records for conuictions of Forcible Entries, Riots, and such like, as be made out of the Sessions of the peace by particular Iustices, and be to remaine with themselues, and not appointed to be certified thither, I cannot reckon them in the number of the Records of the Sessions of the Peace: no more then I may

well vse the Inrolements of bargaines & sales: and such other Records lying in the charge of the *Custos Rotulorum*, or Clearke of the Peace.

And now, as this man is (by name and office) keeper of the Records of the Peace: So would it not a litle amend the seruice, if hee were (in deed also) carefull for the due preseruation of them, & would not losely leaue them (as commonly it is found) to the onely custodie of the Clearke of the peace, without hauing any Register of their number and sorts, and without appointing any conuenient place certaine, for the more ready search & safe bestowing of them: whereby it falleth out verie often, that after the death of such a Clearke, these Records are hardly recouered, and that peecemeale from his widow, seruants or executors, who at their pleasure may embesel, misuse, or conceale what they will: The which, how farre it may reach to the losse of his Maiesty in his fines and forfaits Roiall, and to the hurt of his subiects as well in their purchases of lands (the Inrolements whereof also are not alwaies orderlie digested) as in their goods, and towards their persons, (by the filching of Bonds, Enditements, or Processes) I leaue to be debated and decided in y Court of their own consciences that take this charge vpon them.

M. Brooke (Tit. Commission 11.) addeth, that

that the Recordes of the Iustices of the Gaole deliuerie doe remaine amongst the Recordes of the peace also. Howbeit I thinke he meant it not of all the Recordes of the Gaole deliuerie.

For as the Iustices of Gaole deliuery haue their proper Clearke, which maketh vp, and keepeth the Records of things determined by their Commission: so the same Iustices (being withall Iustices of Peace) doe leaue with the Clearke of the Peace, Inditements, and such causes of the Peace, as be not determined, but do hang in Processe, to the end that offendors may be the more speedily iusticed.

And it appeareth 13.H.4.10. that Hanford (Iustice of Gaole deliuerie) as his departure called the Cleark of the peace, and willed him to take the name of a prisyner that had beene sent thither for Felony without any sufficient prafe, and to cause it to be enquired of at the nert Sessions of the Peace.

This *Custos Rotulorum* hath credit (by 27. H. 8. ca. 16.) touching Enrolments: by 11.H.7.c. 15. to appoint two Iustices of the Peace that may control the Sherifes bookes: by 27. Eli. c. 12. for taking the oath of the Vndersherife, & by 39. Eliz. c. 12. & 1. Iac. ca. 6. for keeping the Ingrossement sealed of the rates of wages for seruants and labourers.

The gift of the office of the Custos Rotulorum.

And this office of the *Custos Rotulorum* was of ancient time giuen by the discretion of the Lord

Lord Chancellor, vntill that (about the latter end of the raigne of King Henry ỹ eight) sundrie persons (no lesse vnworthy to occupie the Office, then greedy to haue the place) did by their own labour, and other mens friendship, obtaine at that Kings hands, grants of the same by his letters Patents, for terme of their lines: by meanes whereof so many euils did shortly ensue, both to the hinderance of iustice & to the dispersion of the Kings subiects, that the last Parliament of his raigne, (viz. 37. H. 7 c. 1.) did somewhat restraine that course: For as it did ordaine, that none should thenceforth be appointed *Custos Rotulorum* in any shire (a few places of Priuiledge onely excepted) without a Bill signed with the Kings hand: So it took order also, that the same Bil signed should be but as a Warrant to the Lord Chancellor, to assigne (in the commissions of the peace) the same person to be *Custos Rotulorum*, onely vntil the King should (by another Bill signed with his hand) make appointment of another person for the place.

But neither this ordinãce had any long life: for within a few yeeres after it was thought so preiudiciall to the power of the Lord Chancellor, and so troublesome a matter to sue to ỹ King for bils so to be signed, that by the Parliament, (3. E. 6. cap. 1.) the Lord Chancellour was wholly restored to his ancient authority in naming the *Custos Rotulorum*, againe (except in such

h priuiledged places) without expecting a- such Bill: and that the *Custos* appointed by e discretion of the Lord Chancellour, should ioy the same Office, to bee occupied by him- fe, or his sufficient Deputie, in as ample ma- r, as if that Statute (37.H.8.cap.1.) had neuer ene made.

The Clearke of the Peace oweth his atten- nce at the Sessions also. For (omitting that hath speciall trust in the taking of Inrol- ents by 11.H.7.cap.15. and that he is (in a rt) incorporate by the name of his office, to e vpon the statute of Huy and Cry, 27.Eliz. ap.13. generally: and 39. Eliz. cap.25. in one pecial place: because those things haue no re- erence at all vnto the Sessions) he readeth the nditemẽts, & serueth the Court, he inrolleth he Acts of the Sessions, & draweth the Pro- esse. He must record the Proclamations of Rate for Seruants wages, and inroll the dis- harge of Apprentices, 5.Eliz.c.4. He keepeth he Register booke of Licences giuen to Bad- gers & Laders of Corne, 5.Eliz ca.12. and of those that are licenced to shoot in Guns, 2.Ed. 6.cap.14. Presentments for not comming to Church: & the certificat of the Oath of Allege- ance, are to be recorded by him, 3.Ia.ca.4. And he is bound (vnder the pain of xl.s.) to certifie vnto ỳ K.Bench, transcripts of Inditements, vtlawries, attainders, & cõuictions, had before the J. of the p. within ỳ time limited by ỳ stat. 34.

Clearke of the peace.

34.H.8.cap.14.

All which things he cannot doe, if he be not present: so that he is an officer to this Court, and is the Cleark to the Iustices, as the statute 12.R.2.cap.10. nameth him, and not (as M. Marrow thought) the Clearke of the Custos Rotulorum onely.

You may read also 2.H.7.1. that if a Recognisance of the Peace be brought in, to the Custos Rotulorum, and the party grieued will not sue forward, then the Clearke of the Peace (who is the Clearke and Atturney of the King, saith that booke) shall cal vpon it for the Kings aduantage: and I am sure that the said Statute, 37. H.8.cap. 1. calleth his place an Office.

The nomination of the Clearke of the Peace.

Howbeit, the nomination and appointment of him hath long time belonged to the Custos Rotulorum: and he is to enioy his Office so long as the Custos Rotulorum keepeth his place: and may exercise it by himselfe, or by a Deputy sufficiently instructed in the Law, and admitted by the Custos Rotulorum.

And this Office was also (for a time) giuen by the kings Letters patents for term of life, as that of the Custos Rotulorum was, vntill the said statute, (37.H.8.c.1.) recontinued the ancient order of giuing it by the Custos Rotulorum onely.

The Coroners.

Furthermore the Coroners (as the common forme of the precept sheweth, and the statute

7.H.8.cap.5.presumeth) ought to be present the Sessions: But yet, that is not for to certifie their Inquisitions (which ought by 1.& Phil.& Mar.cap.12. to be done at the generall Gaole deliuerie:) nor yet to receiue any approuer, for neither ỳ belongeth to the Iustices of the Peace, 9.H.4.1. but it is only (saith L.Marrow) because the Coroners be parties to the Exigents, and be Iudges of the Vtlawries: Howbeit they are (besides that) Conservators of the peace also, & may (in cases) commit men to prison, and therefore ought to be at the Sessions, to obiect against them.

The Sherife in like maner ought to attend these Sessions, for the double dutie that hee beareth: the one as Sherif to returne the Precept, to take the charge of prisoners, and so to serue ỳ Court otherwise, as he hath in charge by the *Mandamus* that is mentioned in the Commission: the other, because he also hath care and charge of the peace. The Sherife

The Bailifes of Franchises, and the Constables of Hundreds are to serue heere, the one as Ministers, and the other as Iurors, and therefore ought to giue their attendance. Bailifes and Constables.

And euery of those (except it bee the Custos Rotulorum: for thereof I doubt) may without controuersie be amerced: if they make default. But the Ordinary oweth not his attendãce at any Sessions of the peace, as he doth at euerie The Ordinarie.

rie gaole deliuerie, in the opinion of M. Mar
In deed he is not warned by the cõmon for
of Precept, & therefore cannot so conuenient
take knowledge of the Sessions of the Peac
Howbeit, I think that he ought to serue, bu
he shall be called, for matter of Clergie.

Iurors for inquirie and triall.

But especially, here ought to appeare fo
Iurors, as be returned by the Shirife, & w
ned by his Bailifes, whether it be for Enq
rie or triall. And in this behalf, both the Co
miſſion, the common forme of the Precept,
the law it selfe (11. H. 4. cap. 9.) willeth, th
they should be *Probi & legales homines.*

For, if any of them be discredited in Law
as by Attainder in Conspiracie, Attain
Decies tantum, Subornation of Periurie, Co
cealment, or such like, they be not *Probi*, & the
presentment is void by it, vnlesse there be p
besides them, that are not so blemished.

Againe, if they be outlawed, abiured, co
demned in a Præmunire, or attainted of Tre
son, Felony, or such like: then be they not *L*
gales, and their presentment is meerely [voi
also, as it may be gathered vpon the case, 1
H. 4. 41.

And women, infants vnder fourteene yeer
of age, Aliens, and such as be within orders
the Ministery, or Clergy, cannot be empan
led amongst others, Marr.

Generally also, these Iurors ought either
be inhabiting within the shire, or elſe to ha
land

nds there: for the Commission willeth, that ey should be such, *Per quos rei veritas melius iri poterit*: which must needs be vnderstood of ch, as haue cause to know the Countrie: and e Precept is vsually according to the same me: especisilly (in the Countie Palantine Lancaster) each Juror of Inditemẽt & triall ught to haue to the yeerely value of v.l. by der of the Statuts 7.H.5.ca.1. 18.H.6.cap. 2.& 33.H.6.ca.2.

If any of these Jurors returned, be threeore and ten yeeres of age, or haue any contiuall infirmitie, or be otherwise decrepit, yet hat shall not excuse him for not appearing, if he Justices will exact his seruice: but hee is iuen to his Action vpon the statute (West. 2. ap.38.) against the Sherife for his returning him, Mar.

And if he haue a Charter of exemption, hee ught to shew it to the Sherife: against whõ if he will notwithstanding empannel him) he ay haue only his Action vpon the Case, and one other remedy, 18.H.8.5.Cur. which may e truly said, as to the sauing of his issues: but (by some other bookes, and namely, 42.Ass.p. .and Mar.) he is to be discharged vpõ his apparance, and specially where hee hath in his Charter of Exemption, these words, *Licet tangat nos*, vnlesse it fall out that there wãt others that be sufficient to serue & furnish the number, in which case none is to be spared.

Now,

Now, though some of the Iurors of the Enquirie, be of affinity (or consanguinity) with any party greeued, that procureth ỹ Indictement: yet that hindreth not their presentment: howbeit it is no discretion for the Iustices to suffer any such to be empanelled.

Generall and particular Iuries.

Our common manner in Kent (agreeing with the forme of the precept) is to returne particular Iuries for the Hundreds, and one generall Iurie for the bodie of the Shire: the last is made vp with vs (for the most part) of the Constables only: & those others (if they be not filled at the first) are wont to remaine, and to be renued with the Tales from Session to Sessions. But that vsage is no small hinderance to the seruice, (as many do thinke) by reason that (those particular Iuries being seldome serued with full apparance) the whole Enquirie standeth only vpon their labour that are empanelled for the body of the Shire, that is to say, vpon one man of each Hundred, or two (at the most) who cannot be thought to see so much as a whole Iurie of eies both may and doth see.

And therefore, they thinke, that it were good to make vp some of the particular Iuries also (when they bee not full) *de circumstantibus* of other Hundreds: by which meane, either the whole Shire, or (at the least) a great many parts thereof might bee perused and serued.

And to this opinion Master Marrow seemeth to encline, saying, that in default of those which are returned, the Iustices may take a Iurie *De circumstantibus*: And hereunto also the Statute (3. H. 8. cap. 12.) sheweth some good consent, in that it giueth power to the Iustices, by their discretion to command the Sherife or his Deputie, to adde, alter, or diminish the names of the pannell, which if he refuse to doe, hee shall forfeit xx. li. for his contempt.

Neither is it to be obiected that men (being all of one Shire) may not take knowledge of things done in diuers hundreds: seeing, they haue diuers occasions of meeting together, as the Countie Court, the Sherifes turnes, the Assises, and generall Quarter Sessions. And if a Iury of one hundred would make presentment of an offence done within any part of ỹ Shire (out of their owne Hundred) this were good in Law.

Besides the which (if M. Marr. mixture be followed) few of them that doe appeare, shall loose their labour, wheras now the most part of them doe come in vaine.

How they of the Iurie must be sworn and ordered.

But the men be not truly Iurors, til they be sworne, as their name pretendeth, and otherwise their presentment is vtterly void. And if it should (by any ouersight) happen, that they or some one of them, where not sworne at all:

yet if the Record make mention, that they bee ſworne, their preſentment is of force enough: for the Record may not bee gainſaid.

And the Iuſtices may (vpon cauſe) remoue a Iuror, after he is ſworne, 20. H. 6. 5. Againe, if (after the ſwearing of the Jury) their ſeruice be put off till the next day, (vpon any vrgent occaſion) then may they be ſworne a new, as if they had not before appeared, 7 H. 4. 38.

The number of Irors. Each Iurie of Enquirie ought to contain twelue in number at the leaſt, and if their bu eightéene (or moe) it ſhall not be amiſſe: Yea, it is a common order with vs, to haue them of odde number, as ſeuenteene, nineteene, or twentie and one: to the ende (as it ſeemeth) that if they ſhould diſſent in opiniõ ſomewhat equally, yet there ſhould be alwaies one to weigh downe the ſide, and caſt the ballance. But if twelue of them doe agree, the gainſaying of the reſidue cãnot hinder the preſentment. Yea, the Law was (in the time of King Ethred) that in a Iurie of twelue, the agreement of eight ſhould preuaile and make a good verdict, although for a long time together it hath béene, and yet is otherwiſe vſed.

The Iuſtices ought not to commit theſe Irors of Enquiry to any kéeper: nor to keep them

them without meate or drinke: nor to carrie them out of the Towne: and yet they may adiourne them to another place, to giue their verdict.

If these Iurors doe wilfully conceale offences (presentable, & that be complained of by Bill) then may the Iustices chuse an Enquest of persons (whereof euery one may dispend xl.s. by yeere) to enquire of their concealemẽt: And if any such concealement be found within the yeere, euery one of the first Enquest shal be amerced in full Sessions, by the discretion of the same Iustices, 3. H. 7. ca. 1. Concealement.

And because the Iurors of those dayes were yet wilfull in their concealements, it was prouided within eight yeeres after, that the Iustices of Peace should determine causes, vpon information, without any such presentment. But many times *In vitium ducit culpæ fuga:* and therefore, that ordinance endured not long as you shall hereafter perceiue.

Neuertheless, it is to be wished, that these and such other Inquirors would more carefully imploy themselues in that seruice, which is the chiefe and almost the onely ground, whereupon the Iustices are to worke: considering that rarely any other then common promoters (that hunt for priuate gaine, and are not led by zeale of Iustice) will be intreated to informe against the offendors.

And this shall they the better doe, if they

will be directed by these few Counsels, following, viz. First, that they come prepared, to further the good of their Countrie, and not to saue their Issues, or to serue for fashion sake. Then, that they giue credite to credible persons, sworne to informe them: Thirdly, that they measure their doings by the right line of Law, and not by the crooked cord of a pretended equitie and counterfeit conscience, Furthermore, that they hold not a Court of Common plea, by admitting proofe of witnesses against the King, as knowing that they are not to trie an issue, but to offer an Information, the truth or falsitie wherof shall be afterwards tried by another Jurie: Finally that they discouer not their owne doings; for it is vsually a part of their oath, that they shall keepe the Kings Counsel, and their fellowes. And we read in Fitzher. (tit. Coron. 207. and 272.) that to indite a man of Felonie, and then to shew abroad to others what they haue done therein, hath beene taken for Felonie: Howbeit, that Offence is now holden to be finable onely.

Keepe counsell.

And now, as all these owe their seruice at the Sessions, either by reason of their Office, or by vertue of the Sommons: So all others also may freely attend there, if not for any thing that specially concerneth themselues, yet for the aduancement of publike Iustice, and for the seruice of the King. And to this end, they

Priuiledge of the Sessions.

are

are inuited thither (as I may say) by a certain freedome of accesse, & by protection from common arrest: a thing that is incident to each Court of Record, and without the which, iustice should be greatly hindered. So that, if a man come voluntarily to these Sessions, with the mind, either to prefer any Bill of Enditement, or to giue information against another: or to tender a fine vpon an Enditement, touching himself: or doe come compelled to make apparance for the sauing of his bond, and bee arrested by the Sherife vpon common & originall proces, in his comming thither, or during his tarrying there: it seemeth that (vpon examination of the matter vnder his oath) he shall be dismissed thereof by the priuiledge of this Court, euen as it is vsed in the higher Courts at Westminster, 1. H. 7. 12. &c.

Of the Articles that are to be giuen in Charge, at the Sessions of the Peace.

Cap. IIII.

IT was the auncient manner, that twise in the yeere at the Sheriffs turne (which was sometime a Court of great authority, & called Shiremoote,) the Bishop of the Dioces, & the Alderman (or Earle) of the Shire, should be present: the one, to informe the people in the lawes of God: and the other to instruct them in the lawes of the land: Archaionom, *In legibus Canuti, cap.* 17.

And it were to be wished, that as there is commonly at euery Assise, a Sermon (vttered by some learned man) so also the like might be at each generall (or quarter) Sessions of the Peace. For seeing that the lawes of man must be obeyed for God, it doth of necessitie ensue, that he which will seeke to haue man obeyed rightly, must first cause God to be preached truely.

The Justices of the Peace (saith M. Fitz.) for their parts be bound to informe the people: and (no doubt) the charge is giuen, as well to instruct those that be ignorãt, least they offend vnwares: as to enquire of those y^t^ haue alread

alredy fallen into danger by offence, and ther-
of it is, that many ſtatutes do erpreſly com-
maund, that they ſhall be openly read (or de-
clared) at the Seſſions, as you ſhal ſée in place
for it.

But the maner of giuing the Charge, and receiuing the verdit at this day, differeth from that which the Iuſtices in Eyre were woont to vſe: for you may ſée in Maſter Bract. fo. 116. that firſt one of the Iuſtices did open before the whole aſſembly, the benefits of the ſeruice in hand: the commodities of kéeping the Peace: and the euills of the contrarie: and that then the Articles of the charge were read by one and one to the Iurors: who (receiuing the ſame at the hands of the Iuſtices) did alſo make aunſwere (in the yéelding vp of their verdit) to each Article ſeuerally, and by it ſelfe.

The ancient order of giuing the charge in Eire.

Which cuſtome, as it had many profits, ſo it is worthie, in mine opinion, to be reconti-
nued and brought in vſe againe.

Neither ought the multitude of ỹ Articles (now inquirable) to diſcourage any man in this behalfe: For, if thoſe lawes which be leaſt ſeruiceable (either for the preſent time, or for the place, or other iuſt reſpect) were only tou-
ched or run ouer, by way of ſhort articles: then would ther be ỹ more time afforded for ſpeech that might be wel ſpent, aſwell in diſcourſe of exhortation, or dehortation, as in the larger handling of ſuch other ſtatutes, whereof there

is greater vse and necessitie. And this libertie the Iustices in Eire themselues did vse also, as the same M. Brac. in ỹ same place reporteth.

The points of the charge that wee haue in hand, may be reduced to a few heads, and that after sundry sorts of distributiõ: of which (for examples sake) I wil shew you some. First thus

The points of the charge diuided.

1 All the matters inquirable, be either Ecclesiastical, or Lay and Temporall: and these temporal, be either high treasons, petite treasons, felonies, or otherwise punishable and fineable offences: Or thus,

2 All these points, do either concerne God, the Prince, or Subiect: or thus,

3 The breach of these Articles, is offensiue either against the first, or the second Table of the ten Commandements of God: Or thus,

4 All these matters be inquirable, either by vertue of the Commission of the peace, and of the statutes therein implied, or else by power of the statutes not comprehended within the Commission: Or thus,

5 All these lawes do either command or prohibit, things agreeing, or repugnãt to some of ỹ 4. cardinall (or principal) vertues, Prudence, Iustice, Fortitude or Temperance: Or thus,

6 All offences inquirable here, be either voluntarie, inuoluntarie, or mixt: Or thus,

7 All these ordinances do either draw vs to the good, or withdraw vs from the euil, of the mind, the bodie, or fortune: Or thus,

8 When do offend these lawes, either by doing nothing of that which is commanded: or by doing another thing then is commanded: or by doing that amisse, which is commanded well: or thus,

9 These lawes be offended, either by doing too much, or too little.

They may also be diuided, by the variety of the punishments, & by some other accidentall respects: al which I leaue to the choise of such as shall giue them in charge, & will now (for this time) set downe the Articles themselues, after the order of the first & third sort of diuision, pointing out in the first place the Ecclesiasticall causes, & then pursuing the Temporal.

In which doing, first, I wil omit all such statutes as do concerne but onely some one, or a few particular places, knowing ỹ I write to the most part, who haue not to do with them.

Secondly, I will purposely pretermit the distinct rehearsal of punishments, contained in the statutes that I am to run thorow: aswel for breuities sake, because those do rather pertaine to the Iustices, then to the Iurors, as also for that I haue an ancient Precedēt or two to make for me: the one of the Iustices in Eire who (in their charge) did only read ỹ Articles in offence, without vsing any mention of the paies due vnto the same, As it appeareth by *Bracton*, *Britton*, and the smal volume of the old Statutes, vnder the Title *Capitula Itineris*: and ano-

The maner of this charge.

another like of the Articles deliuered to the Enquest of office, in the Kings bench, as is to be seene in the booke of Assises, lib. 27, pl. 44.

And yet, if in some speciall point it may be seruiceable, to haue the paine of the law laide wide open (as in a great many through the lenitie thereof, it wil do no good at al) ỹ Reader shall find it for the most part quoted in ỹ margine here, and readie to be vsed by him.

Lastly, I will neither recite all the parts of each generall Statute by it selfe, nor yet comprehend them wholly and fully with others: because the first of these wayes would be verie long, through the often iteration of the same things, and the other would be so crooked and comberous (through the varietie and difficultie of the exceptions) that the hearer would be many times lost, before I should come to the end.

I know, that M. Fitz. was of the opinion, that the Iustices of peace ought at their quarter Sessions, and might at their priuat Sessions, giue in charge to the inquest, all such matters as they haue power to determine: & this he vrgeth, aswel by the oath of the Iustices (who are sworn to do right in al causes within their Commission, or the statutes) as also by the ignorance of the Iurors, who be instructed onely by the charge: which if it be so, I say not (for my part how either these Iustices (that are bound to vtter al) can be discharged, or the

In

Iurors (that ought to heare all) can bee informed without this, or some such compendious and plaine way, that may both shortly for the time, & lightsomly for the order, comprehend the chiefe substance of all that which belongeth to their Enquirie.

Howbeit, as I thinke it the best for the Iustices, to rehearse all such points, whereof the Jury may make presentment before them: so yet, I hold them discharged (in my slender opinion) if they vnfold onely the articles of their Commission, & of such other statutes as do expresly authorise them to make Enquirie.

For, as there be sundry lawes that doe giue the Iustices of the Peace a certaine speciall (or particular) power in them, & do not yet yeeld vnto them any authoritie to enquire vpon the same (of which sort be the statutes, 27. H. 8. ca. 20. & 32. H. 8. ca. 7. of Tithes: The stat. 35. H. 8. ca. 17. of Wood: The stat. 23. Eliz. ca. 9. of Logwood, and sundry others:) So also there be diuers others, that do afford to the Iustices of Peace, the power of hearing and determining, and yet doe not expresly giue them the name of Enquirie.

And, forasmuch as they may heare and determin of these, by Information (giuen to thẽselues, & by them recommended to the Jury) it seemeth to me, ỹ they be not so necessarily bound to giue thẽ in charge, but that they be wel inough discharged, if they be opẽ & ready

to

to receiue the informations and presentments that shall bée offered vpon them: And of this kind be the statutes of Highwayes (5.Eli.cap. 13.& 18.Eli.cap.9.) the statute of Fighting in Church or Churchyard (5.Ed.6.ca.4.) the statute of Informers, (18.Eli cap.5.) and sundry others, whereof it would be superfluous to make rehearsall.

Neuertheless, because I will not that my fantasie shall either stand against his iudgement, or be preiudiciall to other mens profit, I haue contended (what I may) to deliuer the principal and most seruiceable parts, not only of the Commission and of such Lawes as doe specially containe their Inquirie within thē, but also of all such other statutes as may be heard and determined by Iustices of the Peace at any their Sessions: and that in so narrow a rome, as (if I bée not after some proofe, deceiued) they may be distinctly read ouer in a couple of houres, at the most: So alwayes, that the varieties of the punishments, the yéeres of the kings and their Parliaments, and such other Notes as fall in by the way, be left vnread, and be passed ouer.

Ecclesiasticall causes.

Extoll any forrain power

IF any person haue (within this halfe yeere) by writing, printing, teaching, preaching, or prefelle deed or act, aduisedly, maliciously, &

direct

directly affirmed, holde, ſet forth, or defended, the authority, preheminence, power, or iuriſdiction Spiritual or Eccleſiaſtical, of any ſoraign prince or perſon whatſoeuer heretofore claimed, vſed, or vſurped in this realme, or any the kings dominions, or haue aduiſedly malicioufly, and directly, put in vre or executed any thing for ỹ extolling, ſetting forth, or defence of any ſuch pretended or vſurped iuriſdiction, preheminence, or authority, or any part thereof. Or if any perſon (compellable to take the oath of recognition of the kings Maieſtie to be ſupreme Gouernour in al cauſes within his dominions) haue refuſed to take the ſaid oath, after lawfull tender thereof to him made, 1. Eli. cap. 1. 5. Eliz. cap. 1. enquirable by words of 23. Eli. cap. 1.

Of, fence { 1. Premunire. 2. Treaſon.

{ 1. Premunire. 2. Treaſon.

If any perſon, vnder the kings obedience, haue at any time (within this yeare) by writing, cyphering, printing, preaching, or Act, aduiſedly holden, or ſtood with, to extoll, or defend the power of the Biſhop of Rome, or of his See heretofore claimed or vſurped within this Realme: or by any ſpeech, open in deed, or act, aduiſedly attributed any ſuch maner of authoritie to the ſaid See of Rome, or to the Biſhop therof, within any the kings dominions, yea

Pope.

yée ſhal preſent him, his abbettors, procurers, counſellors, aiders and comforters, 5. Eli. c. 1.

Withdrawe any from obedience.

If any perſon haue by any means practiſed to abſolue, perſwade, or withdraw any other within the Kings dominions from their naturall obedience, or (for that intent) from the religion now eſtabliſhed here, to the Romiſh religion, or to moue them to promiſe obedience to the See of Rome, or other eſtate: Or if any perſon haue béene willingly ſo abſolued, or withdrawne, or haue promiſed ſuch obedience.

Treaſon.

Miſpriſion of Treaſon.

And if any perſon haue willingly aided or maintained any ſuch offendor, or knowing ſuch offence haue concealed it, and not within prædates diſcloſed it to ſome Iuſtice of Peace, or other higher officer, 23. Eli. ca. 1.

Depart out of the Realm to ſerue a forrein prince.

If any ſubiect of this Realme haue after the tenth day of June in the yéere of our Lord God 1606. gon out of this Realme to ſerue any forraine Prince, State, or Potentate, or haue after the ſaid tenth day paſſed ouer the Seas, and there hath voluntarily ſerued any ſuch forraine Prince, &c. not hauing taken the oath expreſſed 3. Ia. ca. 4. before the Cuſtomer and Controller of that port, hauen, or créeke where he had paſſage.

Felonie.

Felonie.

If any gentlemã or perſon of higher degrée, or any perſon which hath borne any Office or place of Captaine, Lieutenant, or any other place, charge, or office in Campe, Armie, or Cõpany of Souldiers, or Conductor of Souldiers,

diers, haue after gone voluntarily out of this Realme to ſerue any foreigne Prince, State or Potentate, or haue voluntarily ſerued any ſuch Prince, &c. before hee became bound by Obligation with two ſufficient ſureties vnto the King, his heires or Succeſſors according to this Act, 3. Iac. cap. 4.

Maſſe.

If any perſon haue ſaid (1.) or ſung Maſſe: or haue willingly (2.) heard Maſſe, 23 Eliz. c. 1.

1. 100 markes and a yeres priſonment.
2. 200. markes and a yeres priſonment.

If any perſon haue vſed or put in vre, any Bull, writing, or inſtrument of abſolution or reconciliation, or of other ſort, gotten from ỹ Biſhop of Rome, or See of Rome, or from any perſon claiming authority from the ſame: Or haue by colour of any ſuch taken vpon him to abſolue, or reconcile any perſon: or haue publiſhed any ſuch Bull or inſtrument: Or if any perſon haue receiued ſuch abſolution, or haue procured, abetted, or counſelled any ſuch Offendour, to the intent to vphold ſuch offence.

Bull, Agnus Dei.

Treaſon.

If any perſon haue (after ſuch offence) aided, comforted, or maintained ſuch offendor, to the intent to vphold the authoritie of the ſaid See of Rome.

Præmunire.

If any perſon (to whom ſuch Bull or Inſtrument hath bẽn offered or perſwaded) haue not within fiue weekes nert after ſignified the ſame to ſome of the Kings priuie Councell, or to the Kings priuie Councel, or to the L. Preſident

Miſpriſion of Treaſon.

ſident of the North, or of Wales.

Præmunire. If any perſon haue brought hither from the Biſhop or Sée of Rome, or frõ any perſon authoriſed, or claiming to be autoriſed by any of them, any Agnus Dei, croſſes, pictures, beads, graines, or ſuch like ſuperſtitious things, and haue the ſame deliuered, or cauſed, or offered to be deliuered to any the kings ſubiects to bie or weare in any wiſe: & if any perſon haue to ſuch intent receiued or taken the ſame, & haue not apprehended the Offerer therof, nor within three daies after diſcloſed him to the Ordinarie, or to ſome Iuſtice of the peace, nor within one day deliuered the thing to ſome Iuſtice of the peace, 13. Eliz. ca. 2. 23 Eliz. c. 1.

Jeſuits and Seminaries. If any perſon (being at libertie or out of hold) haue ſince the eight day of May, in the 27. yere of the raigne of the late Quéen Elizabeth) wittingly & willingly, receiued, aided, or maintained within any part of his highnes dominions, any Jeſuite, Seminarie prieſt, or ſuch other prieſt, deacon, or religious, or eccleſiaſtical perſon, being born within this realm, or any his Highneſſe dominions, and (at any time ſince Midſomer in ỹ firſt yeare of ỹ ſaid late Queene Elizabeths raigne) made, ordained, or profeſſed by any authoritie derined, chalenged, or pretended from the Sée of Rome knowing him to be a Jeſuit, Seminary prieſt or other ſuch prieſt, deacon, or religious, or eccleſiaſticall perſon, 27. Elizab. cap. 2.

Felonie.

Conturation.

If any perſon haue vſed Inuocation, or Cõiuration of any euill ſpirit, or haue conſulted, couenanted with, entertained, imployed, fed, or rewarded any euil ſpirit for any intent, Or haue taken vp any dead man, woman, or child or any part of any dead perſõ to be vſed in any maner of witchcraft, ſorcery, charm, or inchãtment, Or haue vſed witchcraft, inchantment, charme, or ſorcerie, whereby any perſon hath bin killed, deſtroied, waſted, conſumed, pined, or lamed in his bodie, or any part thereof. Felony.

If any perſon haue vndertaken by Witchcraft, Inchantment, Charme, or Sorcerie, to tell in what place any treaſure of Gold or ſiluer might be found, Or where goods loſt or ſtollen ſhould be become, Or to the intẽt to prouoke any perſon to vnlawful loue, or to deſtroy, or impaire any perſons goods, or to hurt any perſon in bodie although the ſame were not effected, 1. Iac. ca. 12. Offence { 1. One yeres impriſonmẽt & 4. times on the pillorie. / 2 Felony.

Prophecying.

If any perſon haue within theſe ſixe Monethes aduiſedly aduanced, publiſhed and ſet forth by writing, printing, open ſpeech, or deed to any other perſon, any fantaſticall or falſe prophecie, vpon armes, fields, beaſts, or Offence { 1. Ten pound, and a yeares impriſonment.

badges, or vpon any time, name, bloodſhed, or warre, to make thereby rebellion, diſſention, loſſe of life, or other diſturbāce within the kings Dominions, 5. Eli. c. 15.

2. All his goods, and priſonment for life.

Periurie.

If any perſon haue vnlawfully procured any other to commit wilfull & corrupt periurie, in any cauſe depending in ſuit in any of the Kings Courts of Record, or in any Leete, Court Baron, hundred, or court of ancient demeſne: or haue corruptly ſuborned any witneſſes ſworne to teſtifie *in perpetuam rei memoriam*: or if any perſon haue vpon ſuch procurement, or by his owne act wilfully committed ſuch Periurie, 5. El. c. 9. & 14. El. ca. 11. 1. Iac. c. 25.

Halfe a yeeres priſonment, ſtand vpon the pillorie and diſabled for a witneſſe.

Diſturbes a Preacher.

If any perſon haue of purpoſe, maliciouſly or contemptuouſly moleſted, or by any vnlawful meanes miſuſed any preacher lawfully authoriſed in his open Sermō or preaching in any Church, or other place, or to be appointed: and who were his aiders, procurers, or abetters, 1 Ma. c. 3. Learn if this ſtature do ſtand for this part.

Three moneths priſonment, and boūd to his good port.

Sacrament.

If any perſon haue (within theſe 3. months) by contemptuous, or reuiling words, or by aduiſedly in any otherwiſe depraued, deſpiſed or reuiled the bleſſed Sacrament of the bo-

Impriſonment and fine.

and blood of Chriſt, 1. Edw. 6. cap. 1. & 1. Eliza. cap. 1.

Seruice and Sacraments.

If any Parſon, Vicar, or miniſter haue refuſed to vſe the Common prayers, or to Miniſter the Sacraments according to the Booke of Common prayers: or (wilfully ſtanding in the ſame.) haue vſed any other forme in open prayers, or in adminiſtration of the Sacramentes, or haue ſpoken any thing in derogation of the ſayde Booke, or any part thereof: Or if any perſon haue in any play, ſong, or rime, or by any open word, ſpoken in derogation of the ſaid booke, or of any thing therein contained: or haue cauſed or maintained any parſon, Vicar, or miniſter, to ſay any common praier, or to miniſter any Sacrament in other maner, then after the ſaid booke: or haue interrupted any Parſon, Vicar, or miniſter to ſay open praier, or to adminiſter any Sacrament according to ỹ ſayd booke, 1. Eliz. cap. 2. & 23. El. cap. 1.

Fine.

1. Loſſe of his promotion for a yeare: and impriſonment by ſixe monethes.
2. Depriuation, and impriſonment by a yeare.
3. Depriuation, and impriſonment for all his life.

If any perſon (being aboue the age of xvj. yeres, & not hauing lawful & reaſonable excuſe to be abſēt) haue not repaired & reſorted vnto his or her pariſh church or chappell accuſtomed, or (vpon let thereof) to

1. 100. marke, or ſixe monether priſonment.
2. 400. markes, or twelue moneths priſoment.
3. All his goods and priſonment for life.

Repaire to Church.

Twelue pence for each offence, and puniſhment by cenſures of the Church.

ſome vſuall place where common prayer is to be vſed, vpon euery Sunday, and other Holy day: and haue not there orderly and ſoberly abiden, during the time of ſuch common prayer, Preaching, or other ſeruice of God: how long ſuch perſon hath forborne ſo to repaire and reſort, 1. Eliz. cap. 2. & 23. Eliz. cap. 1. See 3 Ia. cap. 4.

Keeping a recuſant in his houſe.

If any perſon haue willingly maintained, retained, relieued, kept, or harboured any Seruant, Sojourner, or ſtranger not repayring to ſome Church, Chappel, or vſuall place of Common prayer, to heare Diuine ſeruice, by the ſpace of one Moneth together, not hauing a reaſonable excuſe (other then ſuch as harboreth his father or mother not hauing other ſufficient maintenance, or the ward of any ſuch perſon, or any perſon committed to ſ custodie of any by authoritie) or haue retained or kept in ſeruice, fée, or liuerie any not repayring to ſome Church, as before, by the ſpace of a moneth together, knowing the ſame,

Forfeit x. li. for euery month.

3. Iac. cap. 4,

Conformed Recuſant.

Yere { 1. 20. li. / 2. 40. li.

For euery yeere after 60. li. till he receiue the Sacrament.

If any Popiſh Recuſant conuicte hauing cõformed him or her ſelfe, hath not within the firſt yere after he or ſ hath conformed him or her ſelfe, & after the ſaid firſt yeere, once in euery yeare following at ỹ leaſt, receiued ỹ bleſſed Sacramẽt of the Lords Supper in the parish Church, where he or ſhée haue moſt vſuall

abi

abiden within the ſaid yéere, & if there were no ſuch pariſh church, in ỳ church next adioyning. And if he or ſhe hauing receiued the ſaid Sacrament as aforeſaid, haue after eſtſones offended in not receiuing the ſame as is aforeſaid by the ſpace of a yeare, 3. Iac. cap. 4.

For euery ſuch offence 60 li.

If any Popiſh recuſant, or other Seditious Sectarie, which is by any the ſtatuts (35. El. c. 1. & 2.) to be abiured this Realme and all his Maieſties Dominions haue either refuſed to make ſuch Abiuration, or making it, haue not gone to ſuch hauen within ſuch time, as was to him therfore appointed, and haue not from thence departed this Realme: or after ſuch departure haue returned into any his Maieſties dominions, without his ſpeciall licence, 35. Eliz. c. 1. & 2. 1. Iac. c. 25.

Popiſh recuſants & ſeditious ſectarie.

Felonie.

If any perſon haue kept or maintained any Schoolemaſter which reſorteth not to ỳ Church, or is not allowed by the Biſhop or ordinary of ỳ Dioceſſe, 23. El. c 1.

Schoolemaſter.

The maintainer 10. li. for each moneth.

Schoolemaſter priſoned for a yeere, and diſabled.

If any perſon haue maliciouſly ſtricken any other with any weapon, in Church or Churchyard, or drawen any weapon there to that intent, 5. Ed. 6. c. 4.

Fighting in Church or churchyard.

Looſe one of his eares, or to bee marked with F.

If any perſon haue kept faire or market in the Churchyard, Stat. Winton. 13. Edw. 1.

Faire or Market in churchyard.

Fine.

Rob church or chappell. Felonie.

If any person haue feloniously taken goods out of any Church or Chappell.

Felonies in Lay causes.

Petit Treason Seruant and master, husband & wife, Clarke and Prelate. Murder.

If any seruant haue killed his or her Master, or Mistresse: or any wife her husband: or any Ecclesiasticall person his prelate, 25.E.3. cap.2.

If any person haue (of prepensed malice) killed or murdered another, openly or primly, whether he that was killed were an Englishman or a stranger, liuing vnder the protection of the King.

Felonie: and so be the rest that follow. Poisoning. Murder.

If any haue wilfully killed any other by poysoning: and who be his aiders, abettors, procurers, and counsellors, 1.E.6.ca.12.

Stabbing. Murder.

If any person hath stabbed or thrust, another, that hath not then any weapon drawn, or that hath not then first stricken the party so stabbing or thrusting, so as the partie so stabbed or thrust haue died thereof within sixe monthes after, 1.Iac.ca.8.

Manslaughter.

If any person haue by chance-medly feloniously killed another.

Cut out tongue: or put out eies. Gaoler handling straitly his prisoner.

If any person haue of malice prepensed, cut out the tongue, or put out the eies of any of the Kings subiects, 5.H.4.ca.5.

If any Gaoler, keeper, or vnderkeeper of a prison, haue by duresse and pain compelled any his prisoner, to become an appeacher of [illegible] thers

thers against his will, 14. E. 3. c. 17.

If any person haue committed the detestable vice of Buggery with man or beast, 25. H. 8. c. 6 & 5. El. c. 17. — Buggerie.

If any man haue ravished a maid, widow, or wife, aboue tenne yeeres of age, against her will, though shee consented afterward, W. 2. ca. 34. — Rape.

If any man haue carnally knowne and abused a woman child, vnder tenne yeeres of age, though she consent before. 18. El. ca. 7. — Child.

If any person haue taken a maiden, widow or wife, hauing lands, or goods, or being heire apparant to any, against her will vnlawfully, (other then his ward or bondwoman:) and of his procurers abettors, & receiuers, knowing thereof, 3. H. 7. ca. 2. — Take woman.

If any person being maried, shall marie any other, the former husband or wife being aliue (other then such person, whose husband or wife hath remained beyonde the Sea seuen yeares together, or hath absented him or herselfe one from the other seuen years together within the kings Dominions, the one not knowing the other to be liuing, or that was at time of such marriage lawfully diuorced, or whose former mariage hath by sentence Ecclesiastical beene declared to be void, or whose former mariage was had within age of consent.) 1. Iac. c. 11. — Marrie, the former husband or wife liuing.

If any person haue robbed another, going — Robberie.

or riding by the way, or otherwise, how much or how little soeuer it be that hee taketh from him: or haue priuily and fraudulently picked or cut the purse another, being vpon him, 18. Elizab. cap. 4. Or haue robbed any house by day, or by night, any person being in the same, or thereby put in feare: Or haue robbed any person in any part of his dwelling, the owne, wife, children, or seruants beeing therein, or within any other place within the precinct thereof, and then being waking, or sleeping: Or haue robbed any person being in a Tent or Bwth, in a Faire or Market, the owner, his wife, children, or any seruant being then within the same, sleeping or waking, 5. Ed. 6. cap. 9. Or hath robbed by day time (though no person were then therein) any dwelling house or outhouse thereto vsed, and hath taken thence goods to the worth of v.s. or aboue, 39. El. c. 15.

Cutpurse.
Robbe house.
Booth or tent

Larceny and petit Larceny

If any person or persons, haue feloniously taken the goods of any other: and whether the same bee aboue twelue pence in value, or vnder.

Purueiors.

If any Purueyor for the Kings Maiesties house, or his Undertaker, Deputie, or seruant, haue made any Purueiance without warrant, and haue carried any thing away against the consent of the owner, being aboue twelue pence in value, 28. Edw. 1. cap. 2. 18. E. 2. cap. vltim. 5. Edw. 3. cap. 4. 2. & 3 Phil. & Ma.

Mar. cap. 6.

If any Purueior of the K. or his vndertaker, deputie, or seruant, haue taken any carriage in any other manner then is contained in his commission, 36. E. 3. ca. 2. Or haue made purueiance without the testimonie and appraisement of the Constable, and foure honest men of the towne, & without deliuering tales or Indentures vnder his seale, testifying his purueiances, the goods being aboue 12. pence in value, 5. E. 3. cap. 2. 25. E. 3. ca. 1. Or hath taken any sheep with their wools betwéen Easter and Midsomer, at smal prises, and caried them to his owne house, and shorne them, 25. E. 3. ca. 15.

Quere, if the felonie of Purueiors (made 36. E. 3. ca. 6.) be not altered by 23. H. 6. ca. 14.

If any person haue found a Falcon, Tercelet, Lanor, Laneret, or other Falcon that was lost, and hath not forthwith brought it to the Sherife, that hee might proclame it, but did steale and carrie away the same, 34. E. 3. ca. 22 37. E. 3. c. 19. Hawkes.

If any seruant (being 18. yeres of age, and not being an Apr̃etice) hath gone away with, or hath conuerted to his own vse, any money, iewels, goods or cattels of his maisters or mistresses, and of his or her deliuerie to keepe, of the value of xl. s. to the intent to steale ỹ same, 21. H. 8. c. 7. 5. El. ca. 10. Seruant embeseling goods deliuered.

If any person haue by night broken any house,

Burghlarie, houſe, tower, walles or gates, and hath entred in with an intent to doe any robberie murder, or other felonious act there: Or if any perſon

Burne houſe or barne. haue burned any dwelling houſe: or haue by night burned any barne neere to a dwelling houſe.

Breake priſon. If any perſon impriſoned for felonie, haue broken the priſon, 1. E. 2. Or if any other perſon haue brokē the priſon for ſuch a priſoner, by which he eſcapeth: Or if any Gaoler haue willingly ſuffered ſuch a priſoner to eſcape: or if any perſon, being arreſted for felonie, haue beene reſcued, and by whom.

Conuey munition, or victuals. If any perſon, hauing the charge or cuſtody of any Armor, Ordinance, Munition, Shot, Powder, or habiliments of Warre of the K. Maieſties, or of any victuales (prouided for the victualling of any Souldiers, Gunners, Mariners, or Pioners) ſhal for any lucre, or gain, wittingly, aduiſedly, and of purpoſe to hinder or impeach his Maieſties ſeruice, embeſile, or conuey away any of the ſame, to the value of xx. ſhillings at once, or at ſeuerall times, 31. El. cap. 4.

Hunting by night. If any perſon haue vnlawfully hunted in the night, in any Foreſt, Parke, or Warren, w painted faces, viſors, or other diſguiſings, to the intent to be vnknowne, and haue vpon examination by one of the K. Counſel, or by a Iuſtice of peace of the ſame ſhire, wilfully concealed ſuch hūters or hūting, or haue diſobeied any

y arreſt for ſuch hunting, or made reſcue to
y perſon warranted to arreſt ſuch hunter ſo
at ẏ warrant was not executed, 1.H.7.c.7.

Multiplying. If any perſon haue practiſed the arte of mul-
plication of gold or ſiluer, 5.H.4.cap.4.

Conuey sheep If any haue the ſecond time brought, ſent, or
ceiued, into any ſhip or bottome, any rams,
æp, or lãbs, being aliue, to be cõueied out of
a. dominiõs, or procured the ſame, 8.El.c.3.

Infected with the plague. If any perſon infected with the Plague, and
mmanded to keepe houſe, haue wilfully and
ntemptuouſly gone abroad & conuerſed in
mpany, hauing any infectious ſore vpon
m vncured, 1.Iac.ca.31.

Rebellious aſſemblies. If any perſons (of or aboue the number of
velue) haue bẽn aſſembled, and haue enten-
d, gon about, & practiſed w̃ force of armes,
nlawfully to change any lawes of this realm
to cut or caſt downe any incloſuer of parks,
incloſed ground, or the bankes of any fiſh-
nd, or any conduit head or pipe, to the in-
nt they ſhould lie open, or void, or to haue a-
y Common or way there: Or to deſtroy the
ẽre or Conies in any Parke or Warren,
Douehouſes, or fiſh in Pole, or in Pond, or
cut downe any houſes, barnes, milles, or
yes, or to burne any ſtack of corne or grain,
other vſuall ſuſtenance of men: and (being
mmanded by ẏ Sherife, or any Iuſtice of the
eace of the ſhire, or by the Maior, Sherife, Iu-
ice of peace, or Bailifes of the city, borough,

or

or corporat towne, where the assembly was, by proclamation in ỹ Kings name to depart to their houses (haue notwithstanding continued together one houre after, or haue after that, forcibly attempted to do any such thing. And if any person haue vnlawfully by ringing of Bell, sounding of Trumpet, Drum, Horne, or other Instrument, or by firing a Beacon, or by malicious spæch, or Outcry, or by setting vp, or casting any writing, or by any other act raised, or caused to bee raised twelue persõs, or haue, in such maner & to any such intent as is aforesaid, & they (being commanded by proclamation, as before) haue nevertheles cõtinued together one houre after, or haue afterward attẽpted forcibly to do any of ỹ said things: And if any ỹ wife, or seruant of any the said assẽbled persons, or if any other person haue willingly & without compulsion deliuered or conueied money, harnesse, weapon, or victual to any of the said persons assembled during their aboad together as before. And if any person haue hindred or hurt any who did proclaim or went to proclaime, as before, if any the parties so assembled (knowing of that hinderance, or procuring it) haue neuertheless afterward committed or put in vre any the things aforesaid: And if any persõs (to the number of fortie or moe) haue so assembled to the intent to doe any the said things, or any other felonious or rebellious act, and haue ti-

time

inued together three houres, after such procla-
nation made, at or nigh the place of assembly,
or in some market towne next adioyning, and
after notice to them therof giuen, 1. Mar. Parl.
1. ca. 12. & 1. El. ca. 16.

If any Souldiour (entred a Souldiour of Record) and hauing taken part of the Kings wages, or any Mariner or Gunner (hauing taken prest wages to serue the King on the Sea) haue not accordingly gone to his captain (vnlesse he were letted by notorious sicknesse, or other impediment from God) or haue departed from his Captaine, without his licence vnder his seale, 18. H. 6. cap. 19. 2. & 3. E. 6. cap. 2. 4. & 5. Phil. & Mar. cap. 3. & 5. Eliz. cap. 5. But consider whether this entring of Record, haue any vse now. Souldiour Mariner, or Gunner departing.

If any strangers, calling themselues, or being commonly called Egiptians, haue remained in the Realme one moneth: And if any person (being foureteene yeeres of age (which hath beene seene, or found in the fellowship of such Egyptians, or which hath disguised himselfe like to them, haue remained heere, or in Wales by the space of one month, either at one time, or at seuerall times, 1. & 2. Phil. & Mar. cap. 4. 5. El. cap. 20. Egyptians.

If any dangerous Rogue, that was banished the Realme, or adiudged perpetually to the Galleyes, haue returned into the Realme without lawfull licence, 39. El. c. 4. 1. Ia. ca. 25. Dangerous Rogue.

If

or corporat towne, where the assembly was, by proclamation in ỹ Kings name to depart to their houses (haue notwithstanding continued together one houre after, or haue after that, forcibly attempted to do any such thing. And if any person haue vnlawfully by ringing of Bell, sounding of Trumpet, Drum, Horne, or other Instrument, or by firing a Beacon, or by malicious speech, or Outcry, or by setting vp, or casting any writing, or by any other act raised, or caused to bee raised twelue persõs, or haue, in such maner & to any such intent as is aforesaid, & they (being commanded by proclamation, as before) haue nevertheles cõtinued together one houre after, or haue afterward attẽpted forcibly to do any of ỹ said things: And if any ỹ wife, or seruant of any the said assẽbled persons, or if any other person haue willingly & without compulsion deliuered or conueied money, harnesse, weapon, or victual to any of the said persons assembled during their aboad together as before. And if any person haue hindred or hurt any that did proclaim or went to proclaime, as before: if any the parties so assembled (knowing of that hinderance, or procuring it) haue neuertheless afterward committed or put in vre any the things aforesaid: And if any persõs (to the number of fortie or moe) haue so assembled to the intent to doe any the said things, or any other felonious or rebellious act, and haue continued

inued together three houres, after such proclamation made, at or nigh the place of assembly, or in some market towne next adioyning, and after notice to them therof giuen, 1. Mar. Parl. ca. 12. & 1. El. ca. 16.

Souldiour Mariner, or Gunner departing.

If any Souldiour (entred a Souldiour of Record) and hauing taken part of the Kings wages, or any Mariner or Gunner (hauing taken prest wages to serue the King on the Sea) haue not accordingly gone to his captain (vnlesse he were letted by notorious sicknesse, or other impediment from God) or haue departed from his Captaine, without his licence vnder his seale, 18. H. 6. cap. 19. 2. & 3. E. 6. cap. 2. 4. & 5. Phil. & Mar. cap. 3. & 5. Eliz. cap. 5. But consider whether this entring of Record, haue any vse now.

Egyptians.

If any strangers, calling themselues, or being commonly called Egiptians, haue remained in the Realme one moneth: And if any person (being foureteene yeeres of age (which hath beene seene, or found in the fellowship of such Egyptians, or which hath disguised himselfe like to them, haue remained heere, or in Wales by the space of one month, either at one time, or at seuerall times, 1. & 2. Phil. & Mar. cap. 4. 5. El. cap. 20.

Dangerous Rogue.

If any dangerous Rogue, that was banished the Realme, or adiudged perpetually to the Galleyes, haue returned into the Realme without lawfull licence, 39. El. c. 4. 1. Ia. ca. 25.

If

Dangerous Rogue.

If such Rogue after he hath beene brauded in the open Sessions with a Romane R. vpon the left shoulder, and sent to the place of his dwelling, the place where he last dwelt by the space of a yeare, or the place of his birth, to be placed in labour, haue offended againe in begging or wandring contrarie to the statute, 39. El. c. 4. or this Act, 1. Iac. ca. 7.

Idle Souldier and Mariner.

If any Souldier, or Mariner, or other person (as Souldier or Mariner) haue wandred idle, without setting himselfe to seruice, labour, or other lawfull course of life, and hath not repaired to his place of birth, or dwelling: and had not a lawfull Testimonial from a Iustice of peace, of or neere the place where he landed: or hath counterfeited such Testimoniall, or hath caried the same (knowing it counterfeit) 39. El. cap. 17. 1. Iac. c. 25.

Felonies omitted.

Note that some felonies be here omitted, either because there is none vse of them now, or else for that they be for particular places, as:

Prouisours.

The felonie of Prouisours, 13. R. 2. Sta. 2. c. 2.

Wools.

The felonie of Wools and Wool-sellers, 18. H. 6. c. 15. and certaine felonies in the Statutes of the Staple, 27. Ed. 3. whereof I doubt.

Powdike.

The felonie of *Powdike*, 12. H. 8. ca. 11. & 2. & 3. Phil. & Mar. c. 19.

Armed.

It seemeth also by 25. E. 3. c. 2. that there was a felonie for riding armed, &c. which (I thinke) is not so construed now.

Records.

The felonie of Embesselling Records, 8. H. 6. cap. 12.

If

If any person haue commanded, counselled waged, or procured to be committed any petit treason, murder, manslaughter, Rape, Robberie burghlary, or other the felonies aforesaid. Accessaries before.

If any persons knowing the said Felons, haue receiued, cõforted, aided, abbetted, or fauoured them, before their attainder, or after. Accessaries after.

Hitherto of Felonies and their accessaries in Lay causes, al which are punished by the pains of death, except petite Larceny.

If any person haue maimed another of any member, whereby he is the lesse able to fight, as by putting out his eye, striking off his hãd, finger, or foot, beating out his forteeth, or breaking his Scul: And of their Accessaries. Maime. Grieuous fine.

If any haue committed vnlawfull assault, beating, wounding, or such like trespasse, against the bodie of any man: Or haue with force & against the Law takẽ the goods of another, or haue done any trespas in the lands of another, Commission of the peace. Trespasses. Fine.

If any Ordinarie, Archdeacon, Officiall, Sherife, Escheator, Corroner, Undersherife, Bailife, Gaoler, or other officer, haue by color of his office, or for doing his office, taken a greater, or more excessiue reward or fee then belongeth to him: or haue taken any fee or reward for expeditiõ in doing his office or haue vnlawfully exacted any oath or other vndue thing, Commission of the peace. Extortion. Fine.

If any Escheator (other then of such a Citie, Borough Escheator.

borough, or towne, as hath authoritie to make Eſcheators within themſelues by Letters Patents of the King, or his progenitors) haue taken vpon him that Office in this ſhire, or occupied it by himſelfe, or another, and had not then in this ſhire, lands, tenements, or rents, for life at the leaſt of 20. l. by yeare: or haue ſold or ſet to ferme that office, or made any deputies for whom he will not anſwere, and whoſe names he hath not certified within 20. daies after into the Eſchequer., 12. E. 4. 9.

Loſe fortie pound.

Or if any Eſcheator hath taken for the execution of any *Diem clauſit extremum*, or other Writ in one Countie, aboue xl. ſ. in all: or that xl. ſ. where the lands are not found to be holden *in capite*, 27. H. 6. cap. 17. & Fitzh. 143.

Loſe fortie pound.

Or hath taken for the finding of any office of lands (not exceeding fiue pounds by yeere) aboue xx. ſ. in all, for all the things thereof, 33. H. 8. c. 22.

Sherifes and their Vntlers, &c.

If any Sherife haue letten his Countie, or any his Bailiwikes, Hundrethes or Wapentakes: or haue returned in any pannels, any baliues, officers, or their ſeruents, or ſeruants ſeruants, or haue refuſed to let to Baile (vpon ſufficiēt ſureties) any perſon being in his cuſtody, becauſe of any actiō perſonal, or becauſe of endictmēt in treſpas, & not being in for any Condemnation, Execution, Vtlawrie, Excommunication, Suretie of the Peace, or commāded of any Iuſtice, or for being a vagabond

Forfeit fortie pound and loſe treble damages to the partie.

Or haue taken any obligation by colour of his office, but only to himselfe & vpon ỹ name of his office, & vpon condition only to appeare according to the writ or warrant: or haue taken for an arrest aboue 11.d. Or if he, or any other minister, haue taken any thing for making of any Returne or Pannel: or aboue 4.d. for the copy of a Panel: or aboue 4.d. for the said obligation, or for any warrãt or precept: or any Bailife aboue 4.d. for making any arrest: or the Gaoler aboue foure pence vpon the committing to his Ward of any person arrested, or attached, 23.H.6.c.10.

Sherifes, arresting, or leuying fine for Enditements in his turne.

If any Sherife, or other his minister, haue arrested, or imprisoned, or caused any fine, or ransome, or amerciament to be leuied of any person, by reason of any Enditement or presentment made in the Sherifes turne, or lawday, without proces from the Iustices of peace for ỹ same first obtained: or haue not brought in such enditements and presentments to the Iustices of the peace, at their next Sessions, 1 E.4.c.2.

Lose forte pound.

Sherifes entring of plaints, and leuying amerciaments.

If any Sherife, or any his ministers, haue entred into his book, any plaints in any mans name not being present at the Court, either in his own person, or by sufficient and honest attorney or deputie: Or haue entred any more plaints then the plaintife supposeth ỹ he hath cause of action for: Or haue leuied the shire a-

Lose forte shillings.

Bailife serving warrant.

merciaments without booke indeted between them and two Iust. of the peace: or if ỳ bailif of the Hundred haue made defalt in warning or executing any warrant against any defendant in the Sherifes Court. 11. H. 7. cap. 15.

Sherifes must shew the estreats vnder the Eschequer Seale.

Fine to the King, treble damages to the partie.

If any Sherife or his Minister haue leuied any the debts of the king, without shewing to the parties the estreats of the same, vnder the seale of the Eschequer, 42 E. 3. cap. 9. & 7. H. 4. ca. 3.

Sherifes to returne additions of Iurors.

If any Sherif of this shire, or any other person to whom it appertained to make returns of any writ) hath returned any Iuror without the true additiou of the place of his abode at ỳ time of that returne, or within a yere nert before, or without some other additiõ by which ỳ Iuror might well be knowne: If any Estreat of issues hath beene gathered of any person, other then such as by vertue of the said Estreat was of right chargeable or charged therwith, 27. El. ca. 7.

Fiue markes to the king. Fiue markes to the party.

Vnder sherifes, clarkes & bailifes to be sworne.

If he that taketh vpon him to be the vnder sherife of this shire, hath not (before his exercising of that office) taken the oath of the supremacie, & the oath of his Office, before the Iustices of Assise of one of them, or before the *Custos Rotulorum*, or two Iustices of the peace, the one being of the Quorum.

If any Bailife of franchise, deputie, (or clarke

Clarke) of the Shire, or vnder sherife, or o-
ther person taking vpon him to returne any
Enquest, Iurie, or Tales, or to meddle with
the execution of processe in any Court of Re-
cord, haue not before that receiued & taken the
said oath of Supremacie, and the oath (ap-
pointed for such Officer to take) before some
of said Iustices, after this maner.

Loose fortie pound.

I, A.B. shall not vse or exercise the Office of
Vndersherife (Deputie, Clarke, Bailife, &c.)
corruptly during the time that I shall remaine
therein: Neither shall or will accept, receiue,
or take, by any colour, meanes, or deuise what-
soeuer, or consent to the taking of any maner of
fee, or reward of any person, or persons for the
impanelling, or returning of any enquest, Iu-
rie, or Tales, in any Court of record for the
king, or betwixt party & party, aboue 2.s. or the
value thereof, or such fees as are allowed or ap-
pointed for the same by the Laws & Statutes of
this Realme: But will according to my power,
truely and indifferently with conuenient speed
impanell all Iurors, and returne all such Writs
touching the same, as shall appertaine to be don
by my durie or office, during the time that I shal
remaine in the said office. So help me God.

If any vndersherife, or other of the sayd per-
sons, hath committed any Acte contrary to the
said othes, 27. Eliz. cap. 12.

Treble da-
mages to
the partie.

Sherife and Gaoler. Fine.

If any Sherife or Gaoler haue denied to re-ceiue Felons, by the deliuerie of any Conſta-bles or townes hips, or haue taken any thing for receiuing of ſuch, 4.E.3.cap.10.

Sherife, Bailife &c. Double the value of ſuch forfei-tures.

If any Sherife, Bailife, or other officer or perſon, haue refuſed to pay ouer to ỳ Church-wardens and Ouerſeers of the poore, the mo-tie of the forfeitures by the Statute 4.Iac. againſt vtterance of Beere or Ale to Alehouſe-keepers vnlicenced, 4.Iac.4.

Fees in Liberties.

In Liberties, the Bailifes, Stewards, and other miniſters there, haue like fees, and pu-niſhments for Extortion, as Sheriſes and their miniſters haue out of Liberties, 27.H. 8.cap.7.

Coroner.

If any Coroner haue refuſed to doe his of-fice vpon the view of a dead body by miſadu-ture, without taking any fee therefore, 1.H.8. ca.7. or haue taken vpon the view of the dead bodie of a man ſlaine or murdered, aboue ri-s.iiij.d. of the goods of the ſlayer or murderer if he had goods, or (otherwiſe) of the Town where he was ſlaine in the day time, and ſuf-ſuffered to eſcape, 3.H.7.cap.1.

Looſe fortie ſhillings.

If any Ordinarie, or his Scribe, or Regi-ſter haue taken moe, or greater fees, for the probate of a Teſtament, or for Letters of Ad-miniſtration, then hee ought to take, that is to ſay, 6.d. for the Scribe, for writing the pro-bate of a Teſtament, that ſhall bee brood written in parchment, and likewiſe fiue pe-

Looſe fiue pound.

Ordinarie.

Looſe x.li.& the party much as taken con-trary to this Act.

for the Administration, where the goods of the Testator or Intestate, bee not aboue v.li. If the goods be aboue fiue pounds, and not aboue fortie pounds, then two shillings fiue pence for the Ordinarie, and twelue pence for the Scribe. If they exceed fortie pounds, then two shillings fiue pence for the Ordinary, and .j. s. 6. d. to the Scribe, or else one penny for euery ten lines at ten inches length, at the Scribes election: the like shall bee giuen for euery copie of a Testament or Inuentory, or else after the rate of lines as before, 21. H. 8. cap. 5.

Parson. Vicar. Curate.

If any parson, Vicar, or Curate, haue take aboue foure pence for entring into ỹ Church Booke the licence of a sick person to eate flesh vpon the fish-dayes, 5. Eliz. cap. 5. Or aboue two pence for Registring of a Testimoniall of any seruant, departing from one place to another, 5. Eliz. c. 4.

Mortuary.

If any spiritual person (or any other for him) haue taken Mortuarie (or corps present) or any thing for the same in any place, where ỹ same was not vsed to be giuẽ before the one & twẽtie yere of K. Henry ỹ eight: or taken (in places where Mortuaries were thẽ vsed) anything for a Mortuary where the goods of ỹ dead person were vnder ten markes: or more thẽ three shillings foure pence therefore, where ỹ goods were of the value of tenne markes, and vnder thirtie pounds: or aboue fiue shillings & eight

Forfeit so much as he shall take ouer: & loose xl.s. to the partie grieued.

pence therefore, where the goods were vnder xl. pounds: or aboue ten shillings where the goods were aboue xl.li. 21.H.6.c.5.

Clerke of the Peace.

If the Clerke of the Peace haue taken aboue twelue pẽce for the enrolling of the bargaine and sale of any land, not exceeding forty shillings by the yeare: or aboue two shillings 6.pence if the land excéd that value by ỹ yere, 27.H.8.c.16. Or haue taken aboue two shillings in all, for any licence and Recognisance of a badger, drouer, kidder, or lader, and for the Registring thereof, 5.Eliz.c.12. Or haue taken aboue xx.s. for a Recognisance of him that taketh a Rogue into his seruice for one yéere, 14.El.cap.5.

Fine.

Fine.

Fine.

Or if the Clerke of the Peace or the towne clerke haue not accepted, entred, and recorded, without fée, the presentments at the quarter Sessions of the monethly absence from Church of popish Recusants; & of the names of their children of nine yeres old & vpward, biding with their parents; and of the names of the seruants of such Recusants, appointed to be made by the Churchwardens and Constables or some of them, or by the chiefe Constables of the Hundred, according to the Statute. 3.Iacob.cap.4.

Forfeit xl.s.

Iustices Clarke.

If the Clarke of any Iustice of Peace haue taken aboue xij.d. for any Recognisance of an Alehouse kéeper, or Tipler, 5.E.6.c.25.

Fine.

Clarke of the market.

If the Clarke of the Market haue taken any

com-

common fine, to dispence with faults: or hath ridden with moe then six hor- ses, or hath tarried longer in the countrie then the necessi- tie of his businesse required, 13.R.2.c.4.

1 2.li. 2 10.l. 3 20.l.

If any Officer haue in any Towne taken Scauage, or Shewage (that is to say) any thing for the shewing of ware, or marchan- dize that be truly customed to the King before 19.H.7.c.8.

Scauage: Lose twentie pound.

If the Maior of this Towne of Maidstone (and so of other townes in other shires) haue ta- ken aboue one penny for sealing a bushel mea- sure: or aboue one penny for sealing an hun- dred weight, or aboue a halfe penny for halfe a hundred weight, or aboue a farthing for any lesse weight, 7.H.7.c.3.& 11.H.7.ca.4.

Seale. weights. Lose fortie shillings.

Sundrie other fees of Officers there be, as of Aulnageors, Gaugeors, Sericants at armes, and others whereof there is not so common vse, and therefore I omit them: Howbeit, such are en- quirable, and punishable here also.

Fees omitted.

If the Churchwardens & Constables of eue- ry town, parish, or chappel, or some one of thē, or where there be none such, ỹ Constable of ỹ hūdred, hath not once euery yere presented at ỹ quarter Sess. ỹ monthly absence from church of Popish recusants, & the names of euery of their childrē (of 9. yeres old & aboue, abiding w̄ their parents) & as nere as they could the age

Church-war- den. Constable. High Con- stable. Forfeit xx.s.

of the ſaid children, and the names of the ſeruants of ſuch Recuſants, 3. Iac. c. 4.

Churchwardens. Ouerſeers of the poore.

If any Churchwardens and ouerſeers of the poore, (to whom the money forfeited by 4. Iac. for vttering of Beere or Ale to Tiplers vnlicenced, hath been paid by the Officer or other perſon, that hath leuied or receiued the ſame) haue not within conuenient time truely beſtowed the ſame amongſt the poore, 4. Ia. c. 4.

Double the value of the forfeitures.

The Conſtables and Churchwardens neglecting their duties, touching the Stat. 1. *Ia. ca.* 9 againſt Tiplers, do thereby forfeit xl. s. and the Conſtable or other inferior Officer neglecting the correction of drunkards, and leuying their forfeitures (by 4. *Ia. ca.* 5.) forfeit x. s. which offences are inquirable & preſētable before Iuſtices of the peace, by the ſaid ſtat. 4. *Ia. c.* 5.

Purueiors. Conſtable. Borſholder

Loſe { Double of the thing taken. / Double damages.

Loſe twentie pound.

If any Purueiors of the Kings Ma. haue taken any thing of the value of xl. s. or vnder without readie paiment therefore made: if any Cōſtable or Borſholder haue not (vpō requeſt made) aſſiſted ẏ owners to reſiſt ẏ Purueiors ſo taking. And any of the Kings officers haue procured any to be arreſted or vexed for ſuch reſiſtance, 20. H. 6. c. 8. & 23. H. 6. c. 2.

Loſe fortie ſhillings for each tree.

If any Purueior of timber haue ſelled for the kings vſe any Oaken timber tree, meet to be barked, but onely in barking time (other then trees for building or repaire of the Kings houſes or ſhips:) Or haue taken any profit by the

he lops, tops, or barke of any trées taken by im: Or haue taken from the owner any more f any tree then onely the timber of the same ree, 1. Iac. c. 22.

If any Purueior haue taken any thing of ny man, to the end to spare him: or haue taen corne by any other measure then by ỹ stried bushel, or by any more then eight such bushels to the quarter: or haue taken carriage herefore, without making readie paiment, 25. Ed. 3. c. 1. 36. E. 3. ca. 3. & 1. H. 5. c. 10. Two yeres imprisonment: trebledamages and ransome. & c. One yeeres prisonment. & Fiue pounds to the king, and fiue pounds to the partie.

Of Purueiors within fiue miles of *Oxenford*, or *Cambridge*, See 2 & 3 Ph. & M. c. 15. 14. El. c. 11. & 39. El. ca. 18. Vniuersities.

If any common Informer or Promoter (as he is commonly called) haue compounded or agreed with any person, for any offẽce against any penall Lawe, without the order or consent of some of the Courts at Westminster, or haue wilfully delayed or discontinued his suite once commenced, 18. Eli. ca. 5. & 27. Eli. cap. 10. Informer. Lose x. li and stand on the pillorie.

If any man haue raised Huy and Cry without cause, or (being raised) vpon good cause, haue not beene ready at the commandement of the sherife, or at the Huy and Cry of the Countrie, to pursue and arrest Felons, or such as haue dangerously hurt any man: And Huy and Cry. Fine.

if

if the Sheriſe or any Bailifs haue not followed ſuch Hay and Cry with horſe and Armes, W.1.2.Ed.1.ca.9.3.E.1. *Officium Coronatoris*, Stat. Winch.13.E.1.

Watch. If the watch in euery Borough and towne, haue been kept from Sun riſing to Sun ſetting, betweene Aſcention day, and Michaelmas day, to arreſt ſtrangers that paſſe by in the night ſeaſon. Stat. Winton.13. Ed.1.

Fine.

Highwaies. If any Lord of the ſoile haue not enlarged the highway from market to market ſo that no dike, buſh, nor tree (except great trees) bee within two hundred foote of each ſide thereof, Stat. Winch.13.E.1.

Ride or goe armed. If any perſons (except the Kings ſeruants and officers in doing their ſeruices, and their companie, aiding them in that behalfe) haue ridden or gone armed, by day or night: or haue brought force in affraie of the people before the Kings Iuſtices, or otherwiſe, Stat. Northamp. 2.Ed.3.ca.3.

Impriſonment and loſſe of the Armour.

Eſcape by negligence. If any perſon arreſted, or impriſoned for felonie, haue bin negligently ſuffered to eſcape, 1.R.3.c.3.

Fine.

Barrettors, Maintainers. Embracers. If any be a Barrettor, or a common quarreller, or otherwiſe of euil name and fame, 34 good Ed.3.ca.1. Or a maintainer of quarrels, or an Embracer of Iuries 33. H.8.c.10. & 37. H.8.c.7. & 38.E.3. cap.13.

Priſonment & bearing.

Ten times ſo much as hee taketh, or, a yeares impriſonment.

Barretor. The word (Barrettor) may bee deriued either

ther of the French *Barat* (& so it seemeth to bee taken in the Statute of Champerty, W. 2. c. 49.) signifying deceit, so that Barrettor should notifie a deceiuer: or els of the Latin *Baratro* or *Balatro*, (as some write it) which betokeneth a vile knaue or vnthrift, and (by a *Metaphor*) a spot in the common wealth: But whatsoeuer the word doth properly denote, commō vse (*Quem penes arbitrium est, & ius, & norma loquendi*) taketh it for a common quarreler, or maintainer of quarrels: and in that sence I thinke it to stand in the old Statute called *Ragman*, and it meaneth him that medleth in the quarrels of other men, whether it be by fight, or by suit in Law.

If any be a Champartour, that is to say, one that moueth pleas or suites, or causeth or procureth them to be moued at his owne costs, to the end to haue part of the land, or other thing in variance, 33. Ed. 1. — Champertors. Fine.

If any Iuror in any Inquest here, haue taken any thing of any man to make his presentment fauourable. — Iuror. Imprisonment and ransome.

If any person haue by himselfe, or other for him, giuen any Liuerie of signe or company, or badge, or retained any man, other then his houshold seruant, officer, or learned man in the Lawe 1. Hen. 4. ca. 7. 2. H. 4. cap. 22. & 8. E. 4. c. 2. — Liueries of Companies, and badges. Prisonment, fiue & ransome v. li. losse to the retainor, & the like to the retained. } for each moneth

If any companie of men (other then men of fraternities, and men of Artes in Cities and Boroughs) — Loose fortie shillings.

Boroughs) haue made any one generall suite of cloth, hoods or hats amongst them, to bee knowne by, 7. H. 4. cap. 14.

Fish. Prisonment.

If any person haue by writing, or open speech notified, that the eating of fish, or forbearing of flesh, vpon any daies, now vsually obserued as fish daies, is of necessitie for saluation of Soules, or is the seruice of God, otherwise then as other politike Lawes bee, 5. El. cap. 5.

False tokens or letters. Suffer any corporall paine, except death.

If any person haue falsly and deceitfully gotten into his possession any money, or any other things of any other mans, by colour of false priuie token, or of counterfeit letter, made in another mans name, 33. H. 8. c. 1.

Who be Rogues,

If any person (aboue the age of seuen yeres) calling himselfe a Scholler, hath gone about begging: Or if any Seafaring man (not hauing suffered Shipwracke, nor hauing a lawfull testimoniall from a Iustice of Peace, of, or neere the place where he landed) haue gone about begging, or haue transgressed such Testimoniall: Or if any Idle person haue gone about begging, or haue vsed any subtill craft, or vnlawfull game or play, or haue feined knowledge in Phisiognomy, Palmestry, or other like craftie Science, or haue pretended to tel Destinies, Fortunes, or such like phantasticall imaginations: Or haue vttered himself to be a Proctour, Procurer, Patent gatherer, or Collector, for any Gaole, Prison, or Hospi-

To be whipped.

tall:

tall: Or if any Fencer, Beareward, Minstrel, or common Player of Enterluds, Jugler, Tinker, Pedler, pety Chapmã, or Glassemã, haue wandered abroad: Or if any wandring person, or common Labourer, (not hauing otherwise then by labour to maintain himself) being able of body, haue vsed loytering, or refused to worke for lawful wages: Or if any person deliuered out of Gaole, haue begged for Fees, or trauailed begging, or prętẽding losse by fire, or otherwise, haue wandred begging: Or if any (not being a Felon) haue prętended to bee an Egyptian; or haue wandred in the forme, or habit of counterfeit Egyptians: Or if any impotent or diseased person (licenced by two Iustices of the peace, to goe to Bathe, or Burton, haue not forborne to begge, or haue not returned according to such licẽce: Or if any poore person (appointed to aske reliefe in ỹ same Parish, by the Churchwardens and Ouerseers therof) shall beg in any other sort thẽ is so appointed. For all such be declared, to be Rogues, Vagabonds, and sturdy beggers, 39 El. ca. 3. & 4. See 1. *Ia. c.* 7. that Players in Enterludes and Glassemen shall be within the degree of Rogues: & 1. *Ia. c.* 31. That such as wilfully go abroad out of houses infected with the Plague, though they haue no soare about them, are punishable as vagabonds by the Statute 39. *El. c.* 4: & 7. *Ia. ca.* 4. That able persons running out of their parishes leauing their families vpon

the

the pariſh, ſhall bee deemed, and endure the paines of incorrigible Rogues.

The word Rogue is but a late Gueſt in our Law: For the elder Statutes call ſuch a one, a valiant, ſtrong, or ſturdy Begger and vagabond, and it ſeemeth to be fetched from the Latin Rogator, an aſker, or Begger, and in which ſenee Martian the Poet long ſince vſed it ſaying:

Inter raucos vltimus Rogatores,
Oret caninas panis improbi buccas.

And ranged laſt among the roaring Rogues,
In vaine a morſell may he beg of bread,
So bad, as hungry dogs diſdaine to bite.

Officers not punishing or conveying Rogues.
Loo £ 10.s. for each offence.

If any Conſtable, Borſholder, or Tything man, haue not done his beſt indeuour to apprehend ſuch Rogues as haue begged, or made abood within their Limits, or haue wilfully ſuffered any of them to eſcape puniſhment.

Poore and Rogues.
Forfeit v.li & be bound to good behauior

If any ſuch Officers haue not conueyed ſuch Rogues, towards their places of birth or laſt dwelling: See 1. Iac. cap. 7.) Or if any perſon haue hinderd, by Reſcous, or otherwiſe, the execution of theſe ſtatuts of Rogues, or of the Poore, 39. El. c. 3. & 4.

Looſe 20.s.

If any the Churchwardens and Ouerſéers of any pariſh haue not taken order for ſetting to worke, or for reliefe of their poore: or haue not aſſeſſed the inhabitants and occupiers of lands

lands in their Parish thereof: or haue not endeuored to leuie such assesses: or haue absented themselues from their monthly meeting, or haue not accounted as they ought, 39. El. ca. 3.

If any Parents or children, being of sufficient abilitie, haue not relieued their poore & impotent children or parents, at their owne charge, in such sort as hath at any Quarter sessions of the peace bin appointed for them to do: Or if the Minister of any Parish haue not kept a Register booke of the testimonials for Rogues, 39. El. cap. 3. & 4.

Imprisonment

Loose 20. s. for euery moneth.

Loose 20. s. for euery default.

If any persons (to the number of three or aboue) haue beene riotously assembled, to beate any man, to enter vpon a possession, or to do any such vnlawfull act, & haue done it indeed, or attempted to doe it: Or haue beene assembled together in Routs for any common quarrell, or otherwise vnlawfully against the K. Maiesties peace, 2. H. 5. cap. 5. Commission, vnder the name of Conuenticles.

Riots, routs, vnlawfull assemblies. Prisonment and fine.

If any persons (aboue the number of two, and vnder twelue) being assembled, haue intended vnlawfully with force to murder or slay any of the Kings subiects: Or to cut or cast downe any inclosure, or bankes of any Fishpond, or conduit head or pipe, or to do any the deedes (mentioned in vnlawfull assemblies before) and haue not departed vpon proclamation, but haue attempted to do any of those things.

Rebellious assemblies. One yeres prisonment, and treble damages to the partie grieued and costs.

Or

3. Moneths prisonment.

Or if any person (being moued to make any rebellious assembly) haue not within twenty foure houres after disclosed the same to a Iustice of the Peace, or to the Sherife: Or if any person haue stirred or procured any other to make such assembly, 1. Mar. Par. 1. cap. 12. 1. El. cap. 17.

Lying in awaite. Fine.

If any haue lien in awaite, to maime, or kill any other.

If any haue entred into lands or possessions with force, or entring peaceably, haue holden the same with force, 8. H. 6. c. 9.

Forcible entries. Prisonment, and fine.

If any person haue vnlawfully broken, or destroied the head or damme of any Ponde, Mote, Stewe, or seuerall pitte whrein fishes are put by the owner thereof: Or haue wrongfully fished in any of the same, to the intent to take away the fish against the owners will: Or haue wrongfully entred into any Parke or other ground, before the Statute inclosed, or after this Statute, (by the licence of the king) to bee inclosed, and vsed for keeping of deere, and haue wrongfully hunted, driuen out, hurt or killed any Deere there: Or if any person haue vnlawfully taken away any Hauke, or the egges of any Hauke out of the woods or grounds of any other person, 5. Eliz. ca. 21. See 3. Ia. cap. 13.

Cut Ponde head, fish, hunt Deere, take Hawkes, or their Egges. Three months prisonment, & bound to his good behauior for 7. yeares.

Take Hawks egges: take Hawkes or driue them away.

If any person haue taken, or caused to be taken vpon his owne, or other mens ground, the egges of any Falcon, Goshawke, Lanet,

2 Swanne, 02 haue taken any Eirer, Falcon, 2 Gosshawke, Tercel, Lanner, 02 Lanneret, 02 haue purposely driuen them out of their couerts: 02 haue 2orne any hawke of the brēd of England called a Nielle, Gosshawke, Tassel, Lāner, 02 Lanneret, 11. H. 7. ca. 17.

One yeres & a daies prisonment and fine.
Lose ten pound.
Losse of the Hawke.
Nielle hawke

If any Artificer, Labozer, 02 other Lay man, not hauing lands 02 tenemēts of xl. s. by yere, 2 any spiritual person aduāced to x. l. liuing by the yere, haue kepe grayhound, hound, 02 other dogge to hunt: 02 haue vsed ferrets, nets, 2 other engins to take 02 destroy dēere, hares onies, 02 other gentlemans game, 13. R. 2 ap. 13.

Dogs, Nets, Ferrets.
Hawking in Corne.

If any person haue traced, killed & destroied any Hare, in the snow, 14. H. 8. c. 10.

Trace Hare.
Lose a Noble for each Hare.

If any person whatsoeuer, haue taken, 02 killed any Phesant 02 Partridges, with any manner of net 02 other deuise whatsoeuer, vpon the freehold of any other without special licence; 02 in the night time, except it were vnwillingly, by lowbelling 2 tramelling, who also did then and there presently let them goe againe: 2. if any perso haue hawked, 02 with his spaniels hunted in any ground (not being his owne) wher any corne 02 grain, did then grow, 2 before it was shocked, 02 copped, without ỹ consent of the owner of such corne 02 graine, 1. H. 7. c. 17. 23. Eliz. ca. 10. See 7. Iac. ca. 11.

Take Phesants 02 Partridges.
Lose
Twentie shillings for each Phesant.
Ten shillings for each Partridge.
Hawking in Corne.
Lose fortie shillings.

Three months imprisonment, vnlesse hee pay for euerie Fesant &c. xx s. &c.

If any person haue shot at, killed, or destroid with gun, crosbow, stonbow, or longbow, any fesant, partridge, housedoue, or pigeon, herne mallard, ducke, teale, wigeon, grouse, heathcocke, mosegame, or any such fowle, or any hare: Or haue taken, killed, or destroied any Fesant, Partridge House-doue, or Pigeon, with setting dogs & nets, or other engine: Or haue taken the egs of any Fesant, Partridge, or Swans, or willingly destroied the same, in the nests: Or haue traced, or coursed any Hare in the Snow, or taken any Hare with harepipes, cords, or any such instruments or engines, 1. Iac. c. 27. See 7 Iac. ca. 11. that hee that hath inheritance of 40. li. yerely, Freehold of 80. li yeerely, or is woorth in goods 400. li and their meniall seruants thereto authorized, may take Fesants and Partridges in the day time, vpon their owne and their Masters free Warren, Mannor, and Freehold between Michaelmas and Christmas.

Graphaund setting dogge, &c.

If any person keepeth any Graphound, for coursing of Dære or Hare, or setting dog, or net to take Fesants, or Partriges (not being seised of some estate of Inheritance, of lands, tenements, or hereditamēts, in his own right or in the right of his wife, of ỹ yerely value of x. pounds: Or of lands, tenements, or hereditaments, in his own, or wiues right, for terme of life, of the yerely value of xx. li. Or being possessed of goods to the value of 200. l. to his owne

Imprisonment 3. months, vnlesse he pay xl. s. to the vse of the poore.

owne vse: Nor being the Sonne of a Knight, Baron of the Parliament, or of some higher degree, or Sonne and heire apparant of an Esquire.)

If any person haue sold, or hath bought to sel again, any Deere, Hare, partridge, or Fesant (not brought vp in house) 1. Iac. cap. 27. Sell Deere &c. Deere xl.s. Foreuery {Hare xx s. Partrige x.s Fesant xx.s.

If any person, in the night time, or by day, haue vnlawfully broke, or entred into any Parke impaled, or other seuerall grounds inclosed, vsed for the keeping of Deere: Or in the night time haue vnlawfully broke &c. vsed for the keeping of Conies, and vnlawfully haue hunted, driuen, or chased out, or taken, killed, or slaine there any Deere, or Conies, against the will of the owners, occupiers, or possessors of the same, not hauing lawfull authoritie so to doe, 3. Iac. cap. 13. and 7. Iac. cap. 13. Vnlawfull hunting. Imprisonment 3. Monethes. Treble damages to the party grieued (or for Deere x.li. at election of the party grieued) Finde Suerties for his good abearing seuen yeares.

If any person haue by himself, or any other, sold any Marchandizes or wares, to any other, & haue within three monethes next after that, by himselfe, or by any other bought the same, or any part thereof againe, vpon a lesser price, knowing them to be the same: Or if any person haue by any corrupt bargaine, mortgage, or other meanes, taken in gaine aboue the rate of ten pounds for the hundred, for one whole yeares forbearance, & so after that rate, Vsurie. Loose the treble value, and be imprisoned and fined,

for more or lesse, 37. H. 8. cap. 9. 13. Eliz. cap. 8. and 27. Eliz. cap. 11.

Forestallers, Regrators. Ingrossers.

If any haue within these two yeares forestalled, regrated, or ingrossed vnlawfully.

Forestaller.

A Forestaller, is he that buyeth, or causeth to be bought, or maketh contract or promise for the hauing or buying of any Victuall or Wares, comming by land or water towards any Faire or Market to bee sold, or comming from beyond the Sea towards any Citie, Port, Hauen, Creeke, or Road of this Realme to bee sold, before the same shall be in the Faire or Market, Citie, Port, or Hauen ready to be sold: Or that by any meanes maketh motion to any person for enhauncing the price of the same: Or that doth dissuade, moue, or stirre any person (comming to the Market or Faire) to forbeare to bring any of the same to any Faire, Market, Citie, Port, or Hauen to be sold.

Offence

1. Loose the goods, and be prisoned 2. Moneths.
2. Loose double the goods, and be 6. Moneths imprisoned.
3. Loose the goods, and stand one Pillorie.

Regrator.

A Regrator is hee that regrateth or getteth into his possession, in any Faire, or Market, any corne, wine, fish, butter, cheese, candles, tallow, Sheepe, Lambes, Calues, Swine, Pigges, Geese, Capons, Hennes, Chickins, Pigeons, Conies, or other dead victuall whatsoeuer, brought to any Faire or Market to be sold, and selleth the same againe in any Faire or Market kept there, or within foure miles thereof.

An

An Ingroſſer, is hee that ingroſſeth or getteth into his hands by buying, contract, or promiſe taking (other then by demiſe, leaſe, or graunt of land or tithe) any Corne growing in the field, or other Corne or Graine, Butter, Cheeſe, Fiſh, or other dead victuall, within England, to the intent to ſell the ſame againe. But ſuch as do buy Barley, or Oates, (without foreſtalling) & turne the ſame into Malt, or Oate-meale, and ſel it againe: and ſuch victuallers of all ſorts, as buy victuall (without foreſtalling) and ſel it by retaile againe, and Badgers, and Drouers (beeing lawfully licenced & not abuſing their licences) are excepted. So bee all buyers of wines, oyles, ſpices, & other forreine victuals brought from beyond Sea hither, except fiſh and ſalt onely, 5. E. 6. cap 14. 5. Eliz. cap. 12. 13. Eliz cap. 25.

Ingroſſer.

If any perſon haue within theſe two yeeres bought corn in any faire or market for change of his ſeed (hauing then ſufficient for his houſe and for ſowing his ground for a yeare) and did not bring thither (if he might) ſo much as hee did ſo buy, and did not the ſame day ſell it after the price then going, 5. E 6. cap. 14.

Seed corne.

Looſe the double.

If any perſon haue (at any time within this yere, the moneths of June, July, & Auguſt only excepted) made any Barly Malt, that was not the time of 3. weekes (at the leaſt) in ẏ fat, lowe, ſteeping, & ſufficiẽt drying: & if in any of ẏ ſaid 3. months, & was not 17. daies (at ẏleaſt) in the fat, lowe, ſteeping, & ſufficient drying.

Making of Malt.

Looſe twentie pence for euery quarter.

If any person haue within this yeare mingled any Malt not sufficiently made (or made of mowe burnt, or spired Barley) with other good Malt, and after put the same to sale.

If any person hath within this yeare put to sale any Malt not sufficiently wel trodē, rubbed, and fanned, wherby halfe a pecke of dust, or more may bee fanned out of one quarter thereof. But this Act extendeth not to Malt made for the prouision of a mans owne house or familie, 2, & 3. Ed. 6. ca. 16. and reuiued 27. Eliz. cap. 14. 1. Iac. cap. 25.

Imprisonment 3. daies and til he be boundin xl. pounds.

If any person (beeing lawfully restrained touching his making of Malt) haue not accordingly forborne to make the same, 39. Eliz. cap. 16.

Liue cattell.

If any person haue within these two yeres bought Oxen, Konts, streeres, kine, heifers, calues, sheepe, lambs, goates, or kids, lyuing, and sold and of the same againe aliue, before he hath kept them fiue weekes, 5. Ed. 6. ca. 14.

Loose the double.

If any person haue regrated, ingrossed, or got into his hands any Oaken barke, to the intent to sell the same againe, 1. Iac. cap. 22.

Barke. Forfeit the Barke.

If any person haue forestalled any hides, or bought any hide out of open Market or Fayre, vnlesse of such as haue killed beastes for their owne prouision, 1. Iac. cap. 22.

Hides.

Loose 6. s. 8. d. for euery Hide.

If any person haue bought any Woollen yarne, and haue not made Cloth thereof, 8. H. 6. cap. 5. Or haue bought any Wool, but of the

Woollen yarne

owner

owner of the ſhéepe, and of the tith, cap. 4. 14. R. 2. Loſe the value thereof.

If any Butcher or other perſon, haue killed any weinling, bullocke, ſtéere, or heifer (vnder age of two yeres) to be ſold whole, or by retaile: Or haue killed any Calfe for to ſell, being vnder fiue weekes old, 24. H. 8. c. 9. 1. Iac. cap. 25. & 1 Iac. c. 22. weinling vnder 2. yeares. Loſe a noble for each Oxe. Caiues vnder 5. weekes old. Loſe a noble for each Calfe.

If any perſon haue willingly (betweene the firſt of March and laſt of Iune in any yeere) taken away, or deſtroied the Egges of any Wilde fowle (vſed to bee eaten from the place where they did lay them 25. H. 8. c. 11. 3. E. 6. ca. 3. Egges of wilde foule. Priſonment for a yeere, and loſe after a rate for each Egge.

If any perſon (féeding aboue a hundred and twenty ſheare Sheepe for the moſt part of the yeare, vpon his groũds that be méet for milch kine, and wherein no perſon hath any common) haue not for each 60. ſuch ſheepe reared one Calfe, during the time of kéeping ſuch Sheépe, 2 & 3 P. & M. c. 3. 13. El. c. 25. Or if any perſon feeding vpon his ſeuerall paſtures aboue 20. Oxen, Ronts, Stéeres, ſcrubs, heifers, or kine, haue not for euerie ten ſuch beaſts, kept one milch Cow, & for euery two kine weaned and reared vp yerely one Calfe, except it chance to die, ibid. Yee that feedeth ſuch Sheepe or beaſts onely to be ſpent in his houſe, is excepted, ibidem. Milch kine and Caiues. Loſe xx. s. for euerie Month for each Cow, and the like for each Calfe. The like paine as the laſt before.

Salmons. If any perſon haue taken any Salmons, be-

Office 1 Burn the nets. 2 Three months imprisonment. 3 One yers imprisonment.

tweene the feaſt of the Natiuitie of the bleſſed virgin Mary, and of S. Martin in any riuers or waters: Or haue taken young Salmons at any mil poole, or other place, beween the midſt of Aprill and Midſomer: or haue at any time caſt into any waters any net, by which the fry of any fiſh may be taken, W.2.c. 48. 13.R.2. c.19.17.R 2.c.9.

Frie of Fiſh. If any perſon haue with any net, or meane, taken and killed any frie or ſpawne of any fiſh in any weare floudgate, ſtreame, or riuer (ſalt or freſh) or at the taile of any Mil: or haue taken there any Salmons or Trouts, out of ſeaſon, that is, being kippers, or ſhedders: Or haue taken and killed any Pickerel vnder three inches in length, or Salmon vnder ſixteene inches, or Trout vnder eight inches, or barbel vnder twelue inches: or haue fiſhed in any the ſaid places with any net, but ſuch wherof euery meſh was two inches & a halfe broad: But angling is excepted, and ſo is the taking of Smelts, Loches, Pinewes, Minheads, Gudgeons, and Eeles, in places onely where they haue beene uſed to be taken, 1. Eliz. cap. 17. 1. Eliz. ca. 11. & 27. El. c. 11. 1. Ia. 25. See 3. Ia. cap. 12.

Salmons. Trouts.

Loſe the fiſh and xx.s. for each offence.

All ſe of fiſh.

Nets.

Angling.

Victualers prices reaſonable. If any Butcher, Fiſhmonger, Inholder, Tipler, Brewer, baker, powlter, or other ſeller of Victual, haue not ſold ye ſame at reaſonable

able prices, & for moderte gaines, 3.E.3. c.6. 13.R.2. cap.8.

Loſe the double of that he receiued.

If any Beere brewer, or Ale brewer, haue ſold their drinke at higher prices then haue been appointed by the Juſtices of peace, 23.H.8.c.4.

Brewers.

Loſe ſixe ſhillings for eue uerie barrell, and ſo after that rate.

If any Butchers, Bakers, Brewers, Poulterers, Cooks, Fruterers, or any myſterie of any of them haue conſpired, or taken any oath, or promiſe, not to ſel but at prices certaine agreed betweene them, 2. Edw.6. cap.15.

Victualers conſpiring.

Offence.
1 Ten pounds or xx. daies priſonment.
2 Twenty pounds or ſtand on pillorie.
3 xl li. or loſe one eare & be infamous.

If any Butcher haue ſold or offered to ſell Swines fleſh mezled, or any fleſh that died of the murreine: Or if any other victualler haue ſold, or offered to ſell, any corrupt or vnwholeſome victuall, *Stat. Piſtorum.* ca.7. 51.H.3.

Corrupt Victuall.

Fine.

If any perſon haue againſt proclamation therof made, tranſported or carried out of this Realme, any Corne, Graine, or Malt, growing, or made here: Or any beere, butter, cheeſe or wood, in any veſſel (except to Barwicke, or the Marches thereof) without ſufficient authoritie, or any Seafiſh, or Herring not taken by a naturall borne Subiect heere: or haue by any meanes conueied, or willingly conſented to conuey any of the ſaid things to any veſſell being on the Sea, or in any place

Tranſport. corne, beere, butter, cheeſe, ſeafiſh, herring, wood.

The owner of the veſſel to loſe it.
The owner of victuall to looſe the double value.
The maſter & mariners to loſe their goods, and to haue a yeres impriſonment.

place or Hauen of this Realme, to be tranſported ouer Sea, or into Scotland, without ſufficient authoritie: Or if any perſon hauing licence to conuey any of the ſaid things, haue fraughted, or ladē his veſſel, or any part thereof, at any moe places then one only, 1 & 2 Ph. & M. c. 5. 13. Eli. c. 11. & 13. See 1. Iac. cap. 25 whereby it is lawfull to tranſport ouer the Sea, Corne and Graine, when it is at certaine prices, and the ſame to bee reſtrained againe by the Kings Proclamation. And See 3. Iac. c. 11. for tranſporting of Beere, when Malt is not aboue 16. s. the Quarter.

Butt and Cheeſe.

If any perſon haue bought (to ſell againe) any Butter, or Cheeſe, vnleſſe it be in open Faire or Market, by retailing it after the wey of Cheeſe, & barrel of Butter, or after a leſſe quantitie: Or vnleſſe it be victualers for that which ſhal be retailed or ſpent in their houſes 3. E. 6. c. 21. & 14. Eli. ca. 11. 27. Eliz. cap. 11 1. Iac. 25.

Fiſh packed.

If any perſon haue packed Fiſh in barrels, & haue mixed the countable fiſh with the ſmall fiſh, 22. E. 4. cap. 2 11. H. 7. cap. 23. or haue bought of a Stranger borne, or out of a ſtrāgers bottom, any Herring (other thē ſuch as comes hither by reaſon of ſhip wracke) not ſufficiently ſalted, packed, and caſked, 5. Eli. c. 5.

Bought of Strangers.

Loſe 3. s. 4. pence for each Barrell.

Loſe the Herring or the value.

If any haue brought, ſēt, or receiued into

Rammes, Sheep, lambs tranſported.

to any Ship or bottome, and Rams, heepe, or Lambes, being aliue, to be nueyed out of the Kings domini- ns : Or if any person haue procured e same, 8. Eliz. cap. 3.

Offence { Loose his goods and his left Hand

If any person haue dryed in this ealme to be sold, any Fish taken brought hither by any Stranger orne, 13. Eliz. cap. 11.

Drying of fish brought by Strangers. Loose the Fish or the value.

If any stranger borne, haue brought nto this realm, any cods, or lings, pac- ed in barrels, or other casks, 13. El. c. 11

Cods or Lings in caske. Loose the Fish or the value.

If any person (within this yeare) haue ta- en vpon him to set price, to take Toll, or to emaund any tare vpon any Sea-fish taken by ny Subiect of the K. in their owner vessels: f any Purueyor or other person haue within hat time, by colour of any Commission taken ny such Herring or Sea-fish (other then the ccustomed compositiõ fish for Island) against he will of the bringer in thereof: Or if any erson haue within that time, caused to be la- den and carried in any vessell (whereof any tranger borne, is wholly or partly owner or Master) any fish, victuall, or other thing, from one Port or creek of this Realme, to any other of the same: Or if any person haue within that time brought into this Realme, or any part thereof, other then into the Ile of Man, or into Wales, any Wine comming out of the dominions of Fraunce, or any Tholouse Woad,

Set price or tare vpon sea- fish. Loose the va- lue of the fish. Purueyor.

Forfeit the double value. Sea-fish and Herring.

Loose the goods so laden or the value.

Wine or woad in a strange bottō.

Forfeit all the Wine & woad.

Woad, but only in such Vessell whereof [the] Subiect of the Kings was then owner, or p[art] owner, 5. El. ca. 5. & 27. El cap. 11.

Wines retailed. Loose 3. s. 4. d. for euery gallon, and so after the rate.

If any person authorized to sell wine by [re]taile, haue within this yeare sold the same [a]boue the prices thereof limitted by the K. [pro]clamation, if there haue beene any, 5. Eliz. ca. [5.] & 27. Eliz. cap. 11.

Vtter Flesh. Loose 5. pounds & haue x. daies prisonment.

If any Inholder, Tauerner, Alehouse-[kee]per, common victualler, common Cooke, or [com]mon table keeper, hath vttered, or put to sale [to] any kind of flesh victuall, vpon any day in the time of Lent, or vpon any friday, saturday, or other day appointed by former law to be fish day (not being Christmas day) except it be to such person, as (resorting to such house) hath lawfull licence to eate the same according to the statute thereof made, 5. Eliz. ca. 5. 27. Eliz. ca. 11. See 1. Iac. cap. 29.

Eating flesh. Loose xx. s. or haue one moneths imprisonment.

If any person (other then by reason of age, sickneſſe, childing, or licence) haue within this yeare eaten flesh in Lent, or vpon any fish day obserued by the custom of this realme. 2. Ed. 6. cap. 19. & 5. Eliz. cap. 5. 35. Eliz. cap. [5.] See the Stat. 1. Iac. ca. 29. that no licence granted to any sick or infirme person by force of the Stat. *anno* 5. *Eliz. cap.* 5. shalbe sufficient warrant for their eating of beefe, veale, porke, mutton, or bacon, in Lent, or on fish daies: and see the same statute against Butchers for killing and [ut]tering the same, 1. Iac. cap. 29.

If any common Brewer, Baker, or Tipler, haue broken the Assise of bread, beere, or ale: and if any Steward of Leet, or office in market towne, haue taken any fine for breach of the assise of bread or ale, in such cases, where vpon all punishment is appointed, 13. R. 2. cap. 8. — Assise of bread and ale. Fine.

If any Inns-keeper, Victualler, or Alehouse-keeper, haue at any time sold lesse then one full sequart of the best Beere or Ale for a penie, and of the small iij. quarts for one penie, 1. Iac. cap. 9. 4. Iac. cap. 5. 7. Iac. cap. 10. — Tipler. Forf. 20. s. Disabled to keepe an Alehouse 3. yeres.

If any Inne-keeper &c. haue suffered any person dwelling in the town, village, or hamlet, where such Inne, Alehouse, or Tipling house is, to remaine and continue drinking there (other then persons inuited by trauailers, accompaning them only during their necessarie abode there; labouring & handicrafts men, for one houre at dinner time; and labourers and workmen, which for following their worke lodge or victuall in such houses) other then for vrgent occasion allowed by ij. Iustices of peace, 1. Iacob. cap. 9. 4. Iacob. cap. 5. 7. Iacob. cap. 10. — Tipler: Loose 10. s. Disabled &c. 3. yeres.

If any person haue (within these sixe moneths) remained tipling in any Inne, Victualling house or Alehouse being in ỹ same town, village, or hamlet, wherein such person dwelt the time of such tipling (vnlesse in such cases are by 1. Iac. cap. 9. excepted, which see here next — Drunkennes. Loose 3. s. 4. d.

Offence { 1. 5.s. 2. Bound to the good behauiour.

next before) Or if any person haue (within these fiue moneths) bene drunk, 4. Iac. cap. 5. 7. Iac. c. 10.

Brewer.

If any person haue sold vttered, or deliuered any beere or ale to any person, or into ye house of any person, that hath sold beere or ale as a common Tipler hauing licence in force to sell beere and ale, 4. Iac. cap. 4.

For euery barrell 6.s.8.d.

Weights and Measures.

If any person haue bought or solde by vnlawful weights or measures: or if any person haue bought or sold in any citty or market with any weight or measure that is not lawfully marked and signed: 11. H. 7. cap. 4. Or haue bought corne by heaped measure, in any place (except within shipboord) or haue vsed double measure, the one to buy, the other to sell with. 15. R. 2. c. 4. 11. H. 7. ca. 4. 5. E 3 *de Pistoribus.*

Ouncs { 1. Loose 6.s.8.d. 2. Loose 13.s.4.d. 3. Loose xx.s. and stand on Pillorie.

Common weights and measures.

If they of the towne where the Kings standerd is appointed to remaine, haue not the common Weights and Measures signed, or haue not thereby signed weights & measures sold to all that haue required the same: And if the head Officers of Market towns haue not twise yearely made view and examination of Weights & Measures there, 11. H. 7. cap. 4.

Fine and a meciament.

Vessell for ale or beere.

If any vessel for beere or ale, haue bin sold or put to sale, being made of vnseasonable wood or not hauing thereupon the marke of him that made it: or if any barrel for beere containe not of the Kings standard 36. gallons, ye kilderkin

Loose 3.s.4.d.

8.gallons, the firkin 9.gallons, euery barrel
Ale 32.gallons, the kilderkin 16. gallons,
euery firkin 8. gallons, 23.H.8.ca.4

If any haue made, or brought into this realme any Tun of wine not containing 252 allons, or Pipe not containing 226.gallons Tertian not cõtaining, 82.gallõs, or hogs- d not containing 63. gallons, or Butte of almsie not containing, 126. gallons, or bar- ll of Herring not containing 32. gallons of ine measure: Or barrell of Eeles not cõtai- ing 42.gallons, or Butt of Salmon not con- ining 84.gallons: Or any Kilderkins, terti- ns, firkins, or rũdelets, but after ỹ same rate, H.6.c.11. 1.R.3.ca. 13. & 28. H.8.ca. 14.

Vessels for Wine, Honey Oile, Herring Eeles, Salmon,

Lose the Wine Honey, Oile, and Fish.

If any haue made any vessel of Sope, ỹ be- g empty cõtaineth not 32.gallons for ỹ bar- el, 16. for the halfe barrel, 8. for the firkin, or eigheth aboue 26. poũd, ỹ barel, 13. the halfe arrel, or 6.l. a halfe the firkin, 23. H.8.c.4.

Vessels of Sope.

Lose 3.s.4.d. for each one

If any millers haue taken Toll by heaped easure, 31.E.1. *de Pistor. & Braciat.*

Toll dish.

If any Artificers, workemen, or la- orers, haue conspired or promised gether, or made any oathes ỹ they il not do their works, but at a cer- ine price or rate, or but at certaine imes, or but a certaine worke in a ay, or that one of them shal not take pon him to finish that which an o- er hath begun, 2.E.6.c.15.

Offence.

Artificers conspiring.

1 Ten li. or haue xx. daies prisonment, with bread & water.

2 Twentie li. or stand on Pillorie.

3 Fortie li. or lose one eare and bee infamous.

If

Artificers.

If any perſon doe vſe any Art or manuel occupation, (vſed in the fift yere of the late Q. El.) which hath not beene brought vp therein ſeuen yeares (at the leaſt) as an apprentice: or hath ſet any to worke in it, which is not a workeman, or iourneyman by yere, or hath ſerued as an apprentice 5. El. c. 4.

Arrowhead Smithes.
Loſe the head and bee priſoned, and make fine.

If any Arrowhead Smith haue not well boiled, brazed, and hardened at the appoint with ſteel, and marked with his mark, ſuch heads of Arrowes and quarels, as he hath made, 7. H. 4. ca. 7.

Gash and water hides.
Loſe 20. d. for euerie hide.
Loſe 3. s. 4 d. for euery hide.

If any Butcher haue gashed, ſlaughtered, or cut the hide of any Ore, Bul, Steere, or Cow whereby it is impaired: Or haue watered any hide except in June, July, and Auguſt, or haue put to ſale any putrified or rotten hide.

Butcher
For euerie day 6. s. 8. d.

If any perſon during the time that hee hath vſed the occupation of a Butcher, haue alſo vſed the miſterie of a Tanner.

Tanners.

Loſe the hides & skins tanned

If any perſon (during the time that he hath vſed the miſterie of a Tanner) haue vſed alſo the miſterie of a Shoomaker, Currier, Butcher, or of any Artificer vſing the cutting or working of Leather.

If any perſon (other then ſuch as had a Tanhouſe 19. *Die Martij* 1603. and did then occupie tanning of Leather, or hath beene taught as an Apprentice or hired ſeruant ſeuen yeres in the miſterie of tanning of leather; or hath been wife to a Tanner, or ſonne of a Tanner

brought

ought vp in that myſterie foure yeres, or the
onne or Daughter of a Tanner, or ſuch per-
on as hath married the Wife, or daughter of
Taner, that left to the ſame his Tan-houſe
nd Fats) haue tanned any Leather, or taken
ny profit by tanning thereof.

Loſe al the Leather tanned by him.

If any perſon haue bought, contracted for,
or beſpoken any rough hide, or calues Skinne
n the haire (except ſalt hides for the neceſſary
ſe of Ships) but ſuch perſons onely, as ſhall
nd may by this Act tan the ſame, or will taw
he ſame.

Loſe the Hide, or value.

If any perſon haue bought, ſold, or beſpoken
ny tanned Leather, not wrought into made
ares, (other then necks and ſhreds of Sad-
ers & Girdlers) but ſuch perſons only as will
onuert the ſame into made wares

Forfait the Leather, or the value.

If any Tanner haue ſuffered any hide to lie
n the Limes, till the ſame be ouer limed: Or
aue put any Hides into any Tanne fats be-
re the lime be perfectly wrought out of the:
r haue vſed any thing in Tanning, but only
ſhbarke, Oakebarke, Tapwort, Vault,
eale, Lime, Culuerdung, or Hendung: Or
aue ſuffered his Leather to be frozen, or to be
arched with the fire or Sunne: Or haue tan-
ed any rotten Hides: Or haue not ſuffered
he Hides for outer ſole Leather, to lie in the
wres twelue Moneths, and for the vpper
ether nine Moneths: Or haue negligently
rought the Hides in the wres, or haue not

Loſe the hides, or value.

renued their wores as oft as was requisite: Or haue put to sale any tanned Hide not wrought according to this statute.

Forfait the Hides.

If any Tanner haue raised with any mixtures any Hide to bee conuerted to Backes, Bend Leather, Clowting Leather, or any other sole Leather, except the same be fit & sufficient for that vse.

For euery hide or peece of Leather 6.s. 8.d and for euery 12. Calues skins or sheep skins 3.s.4. and the hides or skins, or their value.

If any person haue put to sale, exchanged, or otherwise departed with, any Tanned Leather (red & vnwrought) but in open Faire or Market, in the places therefore prepared, vnlesse it hath been first lawfully searched and Sealed in some open faire or market: Or haue put to sale any Leather, before it hath beene searched or sealed according to this statute.

Forfeit so much of the Leather as is insufficiently, &c.

If ony Tanner haue put to sale any Leather insufficiently, or not throughly tanned, or not well & thoroughly dried, and ỹ same so found by the Triers of Leather, appointed by this act.

Forfeit x.li. & stand on the pillorie three Market daies.

If any persons hath set his Fats in Tãhils, or other places, where the wores or leather to be tanned in the same may take any vnkind heats, or hath put any Leather into any hoat or warme wores, or hath tanned with hoat or warme woores.

Barke.

If any person haue felled any Oaken trees mẽt to be barked, where Barke is worth two shillings a load, aboue the charges of barking and pilling, (Timber for necessarie building and reparations of houses, ships, or milles excepted)

Forfeit euerie tree, or the double value.

cepted) but betweẽ the firſt day of Aprill, and the laſt of June.

If any Currier haue curried any Leather, but in his owne houſe, ſcituate in a Corporat or Market Towne: Or haue curried any Leather not well tanned, or not thorowly dried after his wet ſeaſon, or haue vſed in ſuch wet ſeaſon any deceitfull meanes to corrupt the ſame: Or haue curried any vtter ſole leather, with any other ſtuffe then hard Tallow, or leſſe of that then the Leather will receiue: or inner ſole leather, or ouer leather, but with good ſtuffe, being freſh & not ſalt, or haue not liquored them thorowly: Or haue ſcalded, or ſhauen too thin, or gasht in ſhaning, or otherwiſe, or not wrought ſufficiently, any leather. Currier. Looſe a noble, and the value of each skin marred for eche offẽce, (except gaſhing in ſhauing) and for ſuch gaſhing double ſo much as the Leather is impaired.

If any Currier haue (during the time that hée hath vſed Currying) vſed the feate of a Tanner, Cordwayner, Shoomaker, Butcher, or other Artificer vſing cutting of Leather. Looſe a Noble for each Hide or Skin.

If any Currier haue refuſed to curry within eight daies in Summer, and fifténe daies in Winter, in al degrées perfectly, any leather brought by any Cutter of Leather, or his ſeruant, bringing with him good ſtuffe for the perfect liquoring of the ſame. Looſe x.s. for euery hide not ſo curried.

If any Shoomaker haue made any Boates, Shoes, Buſkins, Startups, ſlippers, or pãtofles, or any part of thẽ of Engliſh leather wet curried, (other thẽ Déer, Calue, or Goatſkins Shoomaker.

dressed like Spanish leather) but of Leather well tanned and curried, or well tanned only, and well sewed with threed wel twisted, waxed, and rosined, with the stitches hard drawn with hand leathers; without miring Neats and Calues leather in the outerleathers thereof: Or haue put into any Shoes, Boots &c. any leather made of Sheepeskinne, Bull hide, or Horse hide, or into the vpper leather of any Shoes, Startups, Slippers, or Pantofles, or into the nether part of Boots (the inner part of the Shoe onely excepted) any part of the wombe, Neck, Shanke, Flanke, Pole, or Cheek of any Hide, or into the vttet sole other then the best of the Ore or Steere hide, or into the inner sole other then the Wombes, Neck, Poll, or Cheeke, or in the Tressels of the double soled Shoes other then the Flanks of any the said hides: Or haue put to sale in any yeere (betweene the last of September & the twentieth of Aprill) any Shoes, Bootes, Buskins, Startups, Slippers, or Pantofles, meet for any person aboue foure yeres old, wherein hath bin any dry English leather (other then Calue or Goate skins dressed like Spanish leather:) Or haue shewed for sale any of his wares vpon the Sunday.

Loose 3.s.4.d. for euery paires, and the iust value.

If any Lord of Faire or Market haue not appointed & sworne yerely two, three or more honest and skilfull men to be serchers and sealers of leather there, and six honest and expert men

Loose xl.li. euery yeere.

For euery default v.li.

men to try the same Leather: and if such Triers haue don their dueties therin without delay: And if any Sercher or Sealer so appointed, haue refused with speed to seale good leather, or haue allowed insufficient leather: or haue receiued any bribe, or exacted any vndue fee for execution of his Office: or if any perso duely elected Sercher or Sealer refuse to execute the same Office.

Fiue pound for euery Triers default.

Forfeit xl.s.

For euery offence xx.li.

Loose x.li.

If any person haue denied, withstood, or not suffered any such Searcher to enter into any house or other place to serch tanned Leather, & wrought ware, or to seize and carrie away that which was insufficient: Or haue put away any Tanned Leather (red & vnwrought) without registring the same, and the price thereof: Or haue bought any Tanned Leather before it was searched & sealed, or haue carried it out of any Faire or Market, before it was registred.

Loose v li.

Loose the value of the leather.

Forfeit the leather or the value.

If any person (to whom any vnlawfull leather or stuffe hath beene giuen by this Act) haue giuen, or sold the same, to any person ỹ hath sold the same againe, 1. Iac. c. 22.

The buyer shall forfeit 3.s.4.d.

If any Goldsmith, or worker of siluer, haue wrought any siluer, that is not so fine in allay as the sterling, or haue not set his marke vpõ his worke before he set it to sale, 2. H. 6. ca. 14. And if any haue gilded any Sheaths, or any mettal but siluer, sauing ỹ spurs of Knights, and the apparrell of a Baron, or such as are

Goldsmiths, and gilding. Forfeit the double value. Forfeit ten times the value of the thing gilt, & be prisoned one yere

aboue that estate, 8. H. 5. cap. 2.

Pewterer, or Brasier.

If any Pewterer, or Brasier, haue sold, or exchanged any Brasse, or Pewter, but onely in open Faire, or Market, or in his house, vnlesse hee were thereto required by the buyer: Or hath wrought any hollow wares of lay mettall, which is not according to the assise of the lay mettall wrought in London: Or haue not set his seale or marke vpon the said ware, 19. H. 7. cap. 6. and 4. H. 8. cap. 7.

Loose x. li. for each default.

Loose the wares.

Tilemakers.

If any Tilemaker haue not digged and cast vp his earth for Tile, til after the first of November, or haue not stirred and turned it till after the first of February following: Or if he haue wrought it before the first of March following: or if hee haue not wrought and tried it from stones, veines, and chalke: Or if hee haue made, or any person haue put to sale, any plaine Tile, vnder x. inches & a halfe in length, fiue inches and a quarter in breadth, and halfe an inch and a quarter in thicknesse: Or any roofe Tile vnder xiij. inches in length, & halfe an inch and halfe a quarter in thicknesse, with conuenient deepnesse: Or any gutter Tile vnder x. inches and a halfe in length, with conuenient thicknesse, bread, and deapth. And if any Searchers appointed for ỳ ouersight of the true making of Tile, haue not done their effectual indeuor and diligence in this behalfe, 17. E. 4. cap. 4.

Loose the double value to the buyer.

Loose for euery { 100. of plaine Tile, v s. / 100. of roofe Tile, a Noble. / 100 of corner Tile, ij s.

Loose x. s. for each default.

If any person haue sold, or set forth candles or other workes of Ware to sale, at higher price then after the rate of fourepence for the pound, ouer the common price of plaine ware betweene Marchant and Marchant, 11. H. 6. cap. 12.

Ware workes

Forfeit the workes or the value: and to make Fine.

If any Clothmaker haue not set his Seale of Lead vnto his Cloth, thereby declaring the iust length thereof, to be tried by the water, 3. E. 6. ca. 2.

Clothmaking and Dying.

Fine.

If any person haue stretched any Cloth aboue one yard and a halfe in length, or one quarter of a yard in breadth, or haue put to sale any Cloth that hath shrunke more in the wetting, then is aforesaid: Or haue stretched any narrow Streit or Kersey aboue one yard in length, and a quarter of a yard in breadth, or haue put any such to sale that haue shrunke more in the wetting, 3. Ed. 6. cap. 2.

Loose 40. s. for each default.

If any Dier of woollen Cloth, haue died any browne Blewes, Pewkes, Tawnies, or Violets, that were not perfectly boyled, grained, or maddered vpon the Woad, and shot with good Corke, or Orchall sufficiently, 3. E. 6. ca. 2.

Loose 20. s. for each offence.

If any person haue died any wool for Cloth called Russets, Marbles, Graies, Bayes, or such like, or for Hats or Caps, vnlesse it were perfectly woaded, boyled, and maddered: Or haue died with Brazel, to the intent to make

Loose 40. s. for each Cloth, or Wooll, sufficient for a cloth. Loose 20. s. for each offence.

a falſe colour, in any ſuch Cloth or wool: Or haue put any flore, chalke, ſtarch, or other deceiuable thing vpō any Cloth (except certaine Deuonſhire & Cornwall ſtraights, 3. E. 6. c. 2.) Or haue occupied any Yron cards, or picards in rowing of any woollen Cloth: Or haue ſold any Cloth of any leſſe meaſure then after the true content thereof by the yard and ynch: Or haue put to ſale in this Realme any Cloth (being preſſed) to bee occupied in England, Wales, or Ireland, 3. E. 6. c. 2.

Loſe fortie ſhillings for each offence. Loſe them, and xx. s.

Loſe a Noble for each yard.

Loſe the cloth, or the value.

If any Ouerſeers of Cloth, appointed by ỳ Iuſtices of peace for this yere, haue refuſed to be ouerſéers, or haue not within their charge, made due ſearch thereof once euerie Quarter: And if any perſon haue interrupted them to make ſuch ſerch, 3. Ed. 6. cap. 2.

To Loſe as the offenders thémſelues ſhould loſe.

If any Kentiſh broad Cloth (except courſe Cloth onely, not exceéding vj. l. price) hath bin made, that contained not in length betweene xxvij. and xxx. yardes, be-

Loſe xx. li.

in wet; and in breadth ſeauen quarters within the liſtes: and in weight 76. pounds, being well ſcoured, thicked, milled, and fully dried, 5. Ed. 6. cap. 6. and 4. & 5. P. & M. cap. 5. See this altered 4. Iac. c. 2.

Forfeit xx. ſhillings for each fault of breadth, or length: and the like for each want of weight aboue foure pound.

And ſo changing it after their rates for other Countries, as by thoſe Statutes appeareth.

For regrating of Wools by *Halifax* men, See 2 & 3 P. & M. c. 13.

If

If any person haue vsed, or caused to be vsed, any racking, beating, or casting of any deceitfull liquor, or other meane, with any kind of Linnen Cloth, whereby the same became deceitfull, or the worse for the good vse thereof, 1. Elizab. cap. 12. Linnen cloth. Forfeit the Cloth, haue one Moneths imprisonment, and pay Fine.

If any owner of any Scite or Precinct, and Demeasnes of any late dissolued Religious house (that was in yearely value vnder 200. pounds) doe not keepe an honest and continuall houshold thereupon, 27. H. 8. c. 22. & 5. El. cap. 2. Scites of religious houses. Forfeit xx. nobles for each moneth.

Note that the offences against the Statute of *Husbandrie and Tillage*, 39. Eliz. cap. 2. which extendeth not to Kent, Essex, Sussex, and many other Shires, nor to the greatest part of *Wales*, are inquirable and determinable at the Quarter Sessions: but I leaue them to the Iustices of those Shires in which they haue force.

If any person haue at once kept aboue the number of 2000. Sheepe of all sorts, against the purport of the statute, 25. H. 8. c. 13. 2000. Sheepe Loose 3. s. 4. d. for euery sheepe more.

If any Owner, officer, or ruler of any Faire or Market, haue not appointed one certaine open place there, for the sale of Horses, Geldings, Mares, and Coltes, and one sufficient person to take Toll, and keepe the said place: And if any such Toll-gatherer, or his deputy, haue taken any more then one penie toll for one contract, or for entring the names of the parties Faire & Market for horses. Loose 40. s. for each default, and answere the party grieued.

parties, and that in the same place onely, and betweene tenne of the clocke in the morning, and Sunne setting, 2 & 3 Phil. & Mar. cap. 4.

Entrie in the toll booke.

If any person haue in any Faire or Market, sold, giuen, or put away, any horse, mare, gelding, colt, or filly: vnlesse the toll-taker, booke-keeper, bailife, or chiefe officer therof, will take vpon him perfect knowledge of the same person, his name, Surname, and place of dwelling, or resiance, and shall enter the same into a booke kept for horses sold: or vnlesse y said person do bring to such tol-taker, booke-kæper, &c. one sufficient and credible person, that can and will testifie, that hee knoweth the seller, giuer, or putter away, his name, surname, misterie, and dwelling place: and there enter into such booke, as well the same, as the name, surname, misterie, and place of dwelling, or resiance of such testifier, together with the true price that shall be taken for any such horse, mare, gelding, colt, or filly so sold: None shall so testifie vnlesse he do indeed truly know the same, vpon paine to forfaite

Fiue pounds.

v.l. for euery defalt in any the premises. And the like paine vpon the toll-taker, or other Officer aforesaid, that shall refuse to giue to the buyer, or taker of such horse &c. a true note in writing of that his entrie, the partie paying two pence for the same, 31. Elizabeth. cap. 12.

If

If any Inns-holder (dwelling in any Citie, Towne corporate, or Market towne, wherein is any common Baker that hath been Apprentice there seuen yeeres) haue within his owne house made any horse bread: or (dwelling in any other thorowfare) haue made it insufficiently, and not of due assise, 13. R. 2. ca. 8. & 32. H. 8. cap. 41. Inne-holder. Horsebread.

If any Inholder haue taken any thing for litter: or haue take excessiuely for hay, or haue take aboue one halfpeny in a Bushel of oats, ouer the common price in the Market, 13. R. 2. cap. 8. & 4. H. 4. cap. 25. Hay and oats. Loose the quadruple value of that which he hath taken more.

If any person haue beene retained into seruice to worke for any lesse time then a whole yeere, in any the Arts of a clothier, woollen weauer, tucker, fuller, clothworker, sheereman, dier, hosier, tailer, shoomaker, tanner, pewterer, baker, brewer, glouer, cutler, smith, ferror, currier, sadler, spurrier, turner, copper, hatmaker, feltmaker, bowyer, fletcher, arrowhead maker, butcher, cooke, or miller. And if any person being vnmaried (or vnder thirtie yeeres of age, and married) and being compellable to serue in any of those Arts, haue refused to serue. Seruants not retainable for lesse then one yeere. The retainer is voide. Refusing to serue. Prisoned till he will serue.

If any person being betweene the age of twelue yeeres and threescore, and being compellable to serue in Husbandry, haue refused to serue in Husbandry, after request therof made by any person keeping Husbandry: And if any person Prisoned till he will serue.

Greater wages. Forfeit v.l.

person haue giuen any wages, contrary to the Rates of wages of Seruants and Labourers appointed and proclaimed.

Testimoniall.

If any person retained in Husbandrie, or any the said Arts, haue after his retainer expired, departed out of one limit, town or parish, into an other, without a Testimoniall: And if any person haue accepted into his seruice, any so departing, without shewing such Testimoniall.

Prisoned for one and twentie daies, and whipped then if hee bring not a Testimoniall.

Loose v.li. for each offence.

Put away, or depart away.

If any person haue put away his Seruant before the end of his term, without reasonable & allowed cause before a Iustice of the peace, or at the end of his terme, without a quarters warning before giuen: And if any seruãt haue departed without such cause before the end of the terme, or at the end thereof, without such warning giuen before two lawful witnesses.

Forfait xl.s.

Prisoned til he will continue.

Vndertake worke, and not finish it.

If any Artificer or Labourer, hired by the day, or weeke, haue not continued at his worke so many houres in the day as he ought: Or taking any worke by the great, haue vnlawfully departed before the finishing thereof.

Forfait one penie, for each houres absence.

Forfait v. li. and haue one Moneths imprisonment.

If any Seruant, workman, or Labourer haue wilfully & maliciously made any assault or affray vpon his Master, or Dame, or other person hauing the charge of such workers, or worke.

Assault Master or dame.

One yeares imprisonment, and other open corporall punishment, not extending to life or lim.

If

If any Constable, or head Officer, haue not vpon complaint, put into the stocks two daies & one night, euery Artificer, or person meete to labor, that hath refused to labor in Hay time, or Haruest, for ỹ getting or carrying of corne, hay, or grain, being therto appointed by a Iustice of peace, or such Cõstable, or head officer. Labor in Hay time & Haruest. Loose xl.s.

If any person haue taken any Apprentice against the order of the Law: And if any person haue exercised any Art, not being brought vp therein as an Apprentice seauen yeeres, 5. Eliz. cap. 4. and 5. Apprentices. Forfait x.li.

If the Churchwardens of any Parish haue not euery Sunday leuied the money for reliefe of the Prisoners in the Gaole, & once in euery quarter paid it to the Constable of the Hundred: Or if the Constable haue not at euery Quarter Sessions paied ouer the same to the Collector thereto appointed: Or if such Collector haue not weekely distributed the same for relief of the said Prisoners, 14. Eliz. cap. 5. 1. Iac. cap. 25. Prisoners relieued. Forfait v.li. Loose v.li. Loose v.li.

If any person hath (since the end of the last Session of Parliamẽt) made, builded, or erected, or caused to be made, &c. any maner of Cottage for dwelling: or conuerted, or ordained any building, or housing, to be vsed as a Cottage for dwelling, vnlesse ỹ same person haue laid thereunto 4. Acres (at the least) of ground (to be accounted by the Ordinance *de Terris mensurandis*) being his or her owne Freehold and Inmates.

and inheritance, lying neere to the said Cottage to be continually manured therewithall so long as that cottage shall be inhabited.

If any person haue willingly maintained or vpholden such cottage, not hauing so many acres so lying and manured.

If there be any Inmates, or mo houshold then one, dwelling in any one Cottage, by the placing, or suffering of any owner or occupier of such Cottage.

Cottages.

But this statute extendeth not to any Cottage in any citie, corporate (or market) town, or ancient Borough: Nor to the dwelling of any workers in Mineral workes, coale-mines, Quarries of stone, or slate, or about the making of brick, tile, lime, or coale: so that they be not distant aboue one mile from the workes, to be vsed only for ỹ habitation of such workers: Nor to cottages within a mile of ỹ sea, or vpon the side of any Nauigable riuer within the Admirals iurisdiction, so as none dwel therein but Sailers, or men of Manuel occupation for ỹ making, furnishing, or victualling of ships, or vessels vsed to serue on the Sea: Nor to any Cottage in any forrest, chase, warren, or park inhabited only by thē that keepe the Deere, or game there: Nor to any cottage hereafter to be made, wherein onely a common heardman, or cōmon sheepheard of any townes, or any poore, lame, sick, aged, or impotent person shal dwel: Nor which for any iust respect (vpō complaint to

to the Iustices of Assise at the Assises, or to the Iustices of peace at the Q. Sessions) shall by their order (entred in open Assises, or Q. Sessions) be decréd to continue for dwelling, for so long time onely as by such decree shalbe limited, 31. Eli. Reg. c. 7. Nor extendeth to any Inmates to be placed by the order of the Iustices in their quarter Session, with the leaue of the Lord of any waste, or common, at ỹ charge of the Parish, Hundred, or Countie 43. Eliz. cap. 2.

If any bridges in the Highwaies (being out of the Cinque Ports, and members therof) be broken or decaied, to the annoiance of passengers, and if yea, then what Hundred, Citie, towne, parish, or person certaine, or bodie politike, ought of right to repaire or amend the same, 22. H. 8. c. 5. Bridges.

If the Constables and Churchwardens of any parish, haue not in Easter weake called their parishioners together, & appointed ouerséers of the worke for amendment of the highwaies leading to any Market, or haue not appointed the fre daies for that worke: & if any such Ouerséers, haue refused that charge. And if any person (hauing a plow land in tillage or pasture, or keeping a draught or plow) haue not found one Waine or Cart, furnished to worke eight houres, euerie of the said daies: Or if any other person (being assessed in Subsidie to v. l. in goods, or xl. s. in lands) haue not like: Highwaies. Fine. Forfeit xx. s. Forfeit x. s. for euery draught. Lose xij. d. for each day.

likewise found two able men: or if any other housholder or Cotager, haue not by himself or any other, so wrought euery of the same daies

Loose 10.s. for each default.

If the hedges, ditches, trees, and bushes, in and on each side of any such highway bee not kept low, scowred, and cut downe by the owners of the grounds adioining: If any such ouerseer, haue not within one month after any of the said offices done, presented the same to the next Iustice of the peace: and if any person occupying land adioining to any such highway, haue cast the scouring of any ditch thereof into the high way.

Lose 12.d. for euerie rod.

If any Bailifes, Constables, Surueiors, or Churchwardēs, haue not leuied the forfeitures for the offices aforesaid, and imploied them vpon their said highwaies and accounted thereof, 2. & 3. P. & M. c. 8. 5. El. ca. 13. 18. Eli. c. 9. 27. El. c. 11.

Bailifes and Constables to lose xl.s.

Surueiors & Churchwardens to be fined.

Highwaies in the Weald of Kent, Sussex, and Surrey.

If any Owner, Occupier, or Fermer of any maner of yron worke, haue not (for euery three loads of Cole or myne, and also for euery tun of yron ỹ he hath caused to bee carried by any waine or cart, beween the 12. of October & the first of May, by the space of one mile through any High way within the Weald of this Countie of Kent) paid 3.s̄. 4. d. to the Iustice of peace dwelling neere the place where the High-waies were most annoied: and haue not likewise (for euerie thirtie loads of coale

or

or mine, and also for euerie ten tunns of yron so carried there betweene the first day of May, & the 25. of October) carried and laid one load of sinder, grauel, stone, or chalke, in such place of the said highwaies, as was by such Justice, or (in his default) by the Surueiours of the highwaies there, appointed therefore or else 3 s. in money for euerie such load so due and not carried to the hands of the said Justice or surueiours, within 8. daies after demand thereof at his said Iron worke. And if any of the last said Surueiors haue not so appointed ỹ place or haue not demanded the said money, or haue not at the next Quarter Session of the Peace presented the default thereof, 39. Elizabethæ cap. 19.

Forfeit x.s. for euerie loade, & for euery 3.s.

Forfeit xl s. for euery default.

If any person haue (for lucre) maintained or kept any common house, alley, or place of bowling, coiting, closh, cailes, tennis, dicing tables, carding, shouegrot, or any other game prohibited by any former statute (as football & casting of ỹ stone) or any other vnlawful new game now inuented: if any artificer of any occupation, or any husbandman, apprentice, labourer, seruant at husbandrie, iourneyman, or any seruãt of Artificer, or any mariner, fisherman, waterman, or seruingman (other then of a nobleman, or of him that may dispend 100. ℔ by yeere, playing within the precinct of his masters house) haue plaid out of the Christmas at any of the said vnlawfull games, or in-

Vnlawful games.

Lose xl.s. for euery day.

Lose 6.s.8d. for euery time.

the Christmas out of the house, or presence of their master, 33. H. 8. c. 9. & vide 12. R. 2. ca. 7. & 10.

Crossebowes and Gunnes. Lose x. li. for euerie offence.

If any person haue shot in, vsed, or kept any handgun, but such as in stocke & gun one yard long: or any hagbut or demyhake, not being three quarters of a yard long, 33. H. 8. cap. 6.

Lose x. li. for each offence.

If any person (not hauing 100. li. reuenue by the yeare) haue carried in his iourney any Crossebow bent, or Gun charged, vnlesse it be to the musters: If any person haue shotte at large (other then at a butte or bank of earth in place conuenient) at any thing with any gun in any citie, borough, market towne, or within a quarter of a mile of any of them, or haue commanded his seruant to shoot in crossbowe, or gun, at any thing other then a but or banke of earth: or if any person (not hauing one hundred pounds by yeare, or not dwelling within fiue miles of the Sea coast, or not dwelling in a house two furlongs distant from any city, borough, or towne) do keepe, or haue in his house any Crossebowe, 33. H. 8. cap. 6.

But such as are charged to finde a gun by the stat. (4 & 5. P. & M. ca. 2) & their seruants may shoot at a but or banke, & at their owne proper games, so that they carry not the same in a high way, except it be going to or from the musters, or to or frō the defence or seruice of the realme,

But

But ſee this ſtat. repealed 1. Iacobi. cap. 25.

If any perſon (hauing an hundred pounds by yere, & hauing ſeiſed any croſſebow or gun by vertue of this act) haue not broke the ſame in peeces within 15. daies next after ſuch ſeiſure: Ibidem. Looſe xl.s.

If any Marchant ſtraunger, being of any country from whence bowſtaues haue beene or ought to bee ſent into this land, haue not (for euery tun weight of burden that his veſſel cõtaineth (brought hither foure bowſtaues 12 E. 4. c. 2. 33. H. 8. c. 10. & 37. H. 8. c. 7. & 13. El. c. 14. and for euery But of Malmeſie ten Bowſtaues, 1. R. 3. cap. 11. Archerie. Forf. 6. s. 8. d. for each bowſtaffe. Forf. 13. s. 4. d. for each But.

If any man being the K. ſubiect, and not hauing reaſonable cauſe or impediment, and being within ỹ age of ſixtie yeares (except Spiritual men, Juſtices of ỹ one bench, or other, Juſtices of Aſſiſes, and Barons of the Eſchquer) haue not a long bow and arrowes ready in his houſe, or haue not vſed ſhooting therein: or haue not for euery man child in his houſe (betweẽ ſeuen yeares, & ſeuentẽne of age) a bow and two ſhafts, and for euery ſuch being aboue ſeuenteene yeares, a bow and foure ſhafts, or haue not brought them vp in ſhooting: If any man vnder age of xxiiij. yeres, haue ſhot at ſtanding pricks: or (being aboue that age) haue ſhot at any marke vnder eleuẽ ſcore yardes with any prick ſhaft, or flight. Archerie. Looſe 6. s. 8. d. for each moneth. Looſe 6. s. 8. d. for euery ſhot.

If the Inhabitants of any towne haue not Butts.

made & continued their Buts as they ought to doe.

Looſe 20.s. for euery 3. moneths.

If any Bowyer haue not for euery Bow that he made of Ewe, made alſo foure other bowes of apt wood to ſhoote in: Or haue not ſold his Bowes for all ages, at their due prices: If any ſtraunger borne, not being a denizen, haue vſed to ſhoote in a long bowe, without the Kings licence: Or haue conueyed out of his Maieſties dominions, any long Bowe or ſhafts, without ſuch licence, 33. H.8. cap.9.

Bowyers.

Looſe 3.s.4. d. for each bowe that ſhall want.

Looſe his bow and arrowes.

Looſe them, and haue priſonment till he make fine.

If any temporall perſon of full age (whoſe wife not being diuorced, nor willingly abſenting her ſelfe from him) doth weare any gowne or peticote of ſilke, or any veluet in her kirtle, or in any lining or part of her gowne (other then in cuffes or purfles) or any Frenchhood, or Bonet of veluet with any habiliment, paſte, or edge of gold, pearle, or ſtone, or any chaine of gold about her necke, or vpon any her apparell, haue not found and kept a light horſe furniſhed, except he hath bene otherwiſe charged by the ſtatute to find horſe or gelding, 33.H.8.cap.5.

Horſe for apparell.

Forfeit x.li. for euerie three moneths want.

If any perſon being generally, or ſpecially commaunded to muſter before any (hauing authority for the ſame) haue without true and reaſonable cauſe abſented himſelfe, or haue not brought with him in a readineſſe, his beſt furniture of array, and armour of his owne per-

Muſters.

Haue tenne daies priſonment, or pay xl.s fine.

perſon, 4. & 5. P. & M. c. 3.

If any perſon (authoriſed to muſter, or to leuie men for the kings ſeruice in war) haue taken any reward for the diſcharge or ſparing of any perſon from that ſeruice: or if any perſon hauing charge of men for warfare, haue not payd to his Souldiers their whole wages, conduct, and coat money, or haue for any gaine licenced any of them to depart out of the ſeruice, 2. Ed. 6. c. 2. ibidem. Captaines. Looſe ten times, ſo much, or xx. li. Looſe ten times ſo much, and to the Souldier treble ſo much as is not paid.

If any Souldier ſeruing the King in his warres, haue giuen away, wilfully purloyned, or put away any horſe, gelding, mare, or harneſſe, wherwith he was ſet forth, 2. Ed. 6. cap. 2. Souldiers. Priſonment till he make ſatisfaction.

If any perſon haue put to feed in any Forreſt, chaſe, moore, mariſh, heath, common, or waſte ground within this Shire, where any mares are vſed to be kept, any ſtoned horſe, being aboue two yéeres old, and not being 14. handfuls high, betwéene the loweſt part of the hoofe, and the top of the wither: If any ſuch forreſt or grounds haue not béene yéerely driuen within fiftéene daies after Michaelmas by the owners or officers thereto appointed, 32. H. 8. c. 13: Horſes and mares for breed. Forfeit the horſe. Looſe xl. s. for euery time.

Note the fenny places that be excepted by the ſtatute 8. El. c. 8.

If watches haue not bin made vpon the ſea Seawatch Fine.

coasts in such places, and with such number of people, and in such manner as it was wont to be, 5.H.4.c.3.

Parliament. The Statute of leuying the wages of the Knights of the Parliament (made 23. H. 6. cap. 11.) hath no common vse, and is therefore pretermitted.

Note also, that these Statutes following are to bee openly published at any Sessions of the Peace, viz.

Purueyors. The Statute (36.Ed.3.cap. 2.3.&4.) shall bee proclaimed by the Iustices of Peace euery yeare, and thereof to enforme the people, 23.H. 6.cap.2.

Victualers. All former statutes for victuals being in force shalbe proclaimed two times yerely in the Sessions of Iustices of the peace, 23.H.6.cap.13.

Archery. The act for Archery 33.H.8. cap.9. must be proclaimed at the seuerall Sessions of the peace.

Of

Of the Enditements, and Presentments, giuen by the Iurors: and of the Matter, and Forme, and receiuing, and *reiecting of them.*

Cap. V.

THe preparation to this Enquirie, thus made, let vs goe neerer, and looke also into the performance of the same. The vnderstanding or knowledge, which the Iustices of the peace doe take by the trauell of these Enquirors, is by the meane of their report put in writing, & commonly called an Enditement, or Presentment: betweene the which two words (howsoeuer they be confounded, or not rightly distinguished, in common speech) mee thinketh that their doth easily appeare a true and certaine difference.

For I take a Presentment to bee, a meere denunciation of the Iurors themselues, or of some other Officer (as you shall heereafter heare) without any other information: And an Enditement to be, the Verdict of the Iurours, grounded vpon the accusation of a third person: So that a presentment, is but a declaration of the Iurors, (or Officers) without any Bill offered before: and an Enditement is their finding of a Bil of accusation to be true. Presentment, and Enditement.

The one seemeth to come of the Greeke ἐνδείκνυμι, I accuse: the other of the French, *presenter*, to offer vnto a man, or to set before him.

Some extend the word Enditement to Felonies and other capitall crimes: and Presentment to Nusances and such inferiour faultes onely. But taking them at aduenture (as others doe) let vs consult with our bookes, that wee may learne by them what points bee requisite to the making of a good Presentment, or Enditement.

Enditement. An Enditement therefore ought to bee, the verdict of Iurors that bee charged to Enquire of that offence which is presented by them. For if A. be endicted of stealing the goods of B. & pleadeth thereto not guilty, and the Iurie findeth that C. stole the goods, and that A. tooke them from him, but not feloniously: this Verdict shall not stand for an enditement against C. because that Iury had no charge to enquire generally who did the Felonie, but to trie specially whether A. were thereof guilty, or no, 13. E. 4. 3.

But if A. be arraigned vpon an Enditement of murder (taken before the Coroner) and is found not guiltie: now, the Iurie ought to find who is guilty thereof: and if they say, that C. killed the man, that verdict shall serue for a good Enditement against C. because the Iury had taken so much into charge, ibid.

This

This also is generally true, that all Billes, Informations, and Enditements, grounded vpon penall Statutes (wherein the Prince only is to reape the forfeiture) ought to bee commẽced within two yeares next after the offence committed: and if the suit be giuen to any other person, for himselfe and the Prince, that ought to commence (for the Prince) within two yeeres, and (for euery common person) within one yeere next after the offence done: And otherwise it is meerely void, vnlesse shorter time be limited by that speciall Statute vpon which the information, Enditment, (or Presentment) is made and framed as it is by the new statute of decaying houses of husbandrie, 13. Elizabeth. cap. 5. & 39. Elizabethæ cap. 1.

Furthermore all Enditements (forasmuch as they be in the nature of a declaratiõ) ought to containe certaintie: and therefore (as saith W. Marrow) fiue principall things be (most commonly) requisite in Presentments before the Iustices of peace, *viz.*

1 The name, surname, addition of the partie indicted.

2 The yeere, the day, and place in which ỹ offence was done.

3 The name of the person to whom the offence was done.

4 The name & value of the thing, in which the offence was committed.

5 The

5 The maner of the fact, and the nature of the offence: as the maner of the treason, murder, felonie, or trespasse.

The name and surname.

The name and surname of the party endicted must be certainly expressed: and if the Endictment be of an accessarie felonie, the name of ỹ principal must be set downe also. For if the Endictment be, *quod* A. *mandauit cuidam ignoto occidere* B. *id quod fecit*, this is vicious: but in treason, trespasse, or maiheme, where all be principals, it may be, *quod procurauit personas ignotas*, to do the treason, trespasse, or maihem, Marrow.

Addition of estate, degree, &c.

Besides the name and surname of the party endicted, there ought also (by the Statute 1. H. 5. cap. 5.) in euerie Presentment wherein processe of Utlawrie lieth, to be added his estate degree, or mysterie, and the Countie, Towne, Hamlet, or Place, where he is, or was conuersant. And euen so ought it to haue bẽne at the commõ law also, as touching names of dignitie made by creation, as Duke, Marquis, Earle, Vicount, Archbishop, Bishop, Knight, or Serieant at the law, because euerie of these Titles were accounted parcel of the name: but it was not so, for the names of Baron, Banneret, and Esquier (which are but names of dignity without creation) nor for Chauncellor, Treasurer, Chãberlaine, Sherife, Coroner, Escheator, Baylife, Deane, Archdeacon, Deacon, Prebendary, or

or Parson, (which are names of dignity by reason of office only) vnlesse the Presentment did charge them in respect of their Offices: for then the name of Office also, as Baylife or Escheatour, ought to bee vsed in the Endictment, Marrow.

But now, Baron, Knight, Esquier, Gentleman, Alderman, Widow, Singlewoman, Dean, Archdeacon, Parson, Doctor, Clearke, Parish-Cleark, are good Additions of estate or degree, (as I take it) within the meaning of this Statute of Additions: But Farmour, Seruant, Butler, or Chamberlaine are not, because they bee common to Gentlemen & Yeomen, and thereby vncertaine. So Chopchurch, Marchaunt, Grocer, Mercer, Taylor, Broker, Husbandman, Hostler, Labourer, Lighterman, Watterman, Spinner, &c. be good Additions of mysterie. But Citizen is not, because it is no mysterie, arte, or degree: Neither is Extortioner, Maintainer, Vagabond, Heretike, Dicer, Carder, or such like, any good addition, because they are euery one euill, and against the law. Degree, or mysterie.

And this part of the Addition of estate, degree, or mysterie, must alwaies be knit to the proper person: For Sybilla Batt. *nuper de* T. *in comitatu* Eb. *vxor* Iohannis Batt. *nuper Spinster*, was reiected, because Spinster was more properly to be referred to Iohn (which is the last Antecedent) then to Sybilla. Collect Dyer 47.

Also by the said statute (as I said) ỹ Addition Place.

on ought to comprehend the Countie, and the Towne or Hamlet or place knowne (out of any Towne or Hamlet) whereof the partie is, or was: So that if there be diuers Hamlets in one Towne, he may bee named either of the Towne or Hamlet: But if he be named of a place known, and the place be within a town, then he must be named of the towne, 35.H.6. 30. And if both the Towne and the Parish do beare one name, he may be named of the one, or of the other of them: But if there be two Towns in one parish, then he ought to be named of the towne, and not of the parish, 5.E.4. 129. 22.E.4.2.& 22.H.6.41.

An Enditement against A. the Parson of Dale, is not good, without naming the place of his abode: because he may lie at another place then where his benefice lieth, 25. Eliz. *Cur. Rep. Crompton.*

Alias dictus. As for the *Alàs dictus* (which is often put in the Addition) the vse thereof is chiefely in Writs, grounded vpon especialties, and to make the Writ and writing to agree. For (as touching Enditements) if the party be not well named, both for his name of baptisme, surname, mystery, or degree, and place, at the first, then cannot the *Aliàs Dictus* make that good which was euill before.

And it appeareth (1.Ed.4.2.& 2.Edw.4.16.) that the Additiõ of the degree or mystery must alwaies be such as the party hath at the verie time:

time: But the Addition of the place may be of ſuch, where he was at any time before, ſo that then the word *nuper* be vſed with it.

Furthermore, the Enditement muſt containe the day, yéere, and place, in which the offence was committed, 8. E. 4. 8. 2. H. 7. 7. & 25. E. 3. 43. And therefore if the Enditement ſuppoſe it the 1. day of March, without any more, that is not good: But if it be the 1. day of March laſt paſt, without ſhewing in what yéere, that is good inough, for ỹ certainty may be found out by the ſtile of the Seſſions. So if it be the 1. day from Eaſter, Añ 4. Iacobi, that is good: Likewiſe if it be in the Vtas of the holy Trinity: and it ſhall be there vnderſtood, to be the very day of the Vtas (viz.) the eight day after the Feaſt, & not *quarto die* after the Vtas: But if it be *Infeſto ſancti Petri*, it is not good, becauſe there be diuers Feaſts of Saint Peter, and none without addition, ſaith 3. H. 7. Fitz. Enditements 22. The yéere, day, and place.

If the Enditement be, that A. ſtruck B. 19. *die Maij anno Regis nunc* 4. whereof B. languiſhed vntil the 11. day of the ſame moneth, *quo quidem* 19. *die* he died of the ſame ſtroke: this is faultie, becauſe it ought to be, whereof hee died the ſaid xx. day &c.

If it be 29. *die Februarij*, it is good enough in ỹ Biſſextile (or Leape yéere) which happeneth once in euerie foure yeeres, and which affordeth xxix. daies to that month. But if it ſhould be

be of a day and yeare which is not then come, there is no reason to thinke it good.

If it be Anñ Dom̃ 1599. the yere shal be accounted after the erronious computation of the Church of England, and not *Stilo novo*, as it is now at Rome, and in other Countries abroad, which also truly is not yet rectified.

If ỹ offence be done in the night before midnight, ỹ Endictment shal suppose it to be done in the day before: and if it happen after midnight, then it must say, it must be don that day after. If it be *In festo* of any Saint, it shalbe construed to be in the verie day of the Feast, and not in the Eue. But if the Presentment be in the Negatiue, or in the Affirmatiue (rising upon a Negatiue) as that A. hath not scowred such a Sewer, or that by the not scowring thereof such Medowes be drowned: in these cases there nèedeth no yeare, nor day, because it affirmeth a present euil, Marr.

But as a man may be too negligent in omitting, or in not hitting the time: so also may he be ouer curious in doubling it without cause. for if hée frame the Endictment, that A. stole certaine goods such a day, and such another day, that is faultie, and vncertaine, because one Felony cannot bee twice committed, 2. Hen. 7. 7.

Place. And not only this certainty of the time, but that of the Place also must be contained in the Endictment: For it was adiudged (25. Ed. 3. 43.)

43.) that a man should not bee put to aunswers to an Enditement of killing the kings Deere, because there was no place named, in which the offence was done. So an Enditement supposing a Felonie to be done in such a place of such a County, where in truth ther is no such place in that County, is meerely void by the Statutes 9. H.5.cap. 1. & 18. Henr. 6. cap. 12.

If a man being stricken in Middlesex, had died thereof in Essex, the bookes 3.H.7.12. 4. H.7.18.6.H.7.10.7.H.7.8.10.H.7.28.& 11. H.4.&c. did not agree, in which of these counties he should be indicted. But the Statute (2 & 3.E.6.ca.24.) taketh order, that if the stroke or poisoning, happened to be in one County, and the death in another County, the Enditement in the County where the death is, shalbe good: and likewise, that if a murder, or felonie, bee done in one Countie, & a man becommeth Accessary therto in another County, the Enditement against the Accessarie shall be good in y Countie wherein he becometh Accessarie.

Where (by the way) you may see in plaine words of this statute, that Justices of the P. may take Enditements of Murder, as of Murder, though M.Fitzh.(fol.17.) deny it, saying that they cannot enquire of Murder, sauing onely as of Felonie, or Manslaughter.

And you shal read of an Enditemēt of Murder (before them) receiued, 3.H.7.5. agreeable where-

wherunto was the opinion of Hales and Portman Iustices as I haue seene in a Repost of Dalison Iustice. And of the same minde also were the Iustices of the Kings Bench, 5.E.6 Collections Dier fol.69.

If a man be robbed by the highway in Middlesex, and apprehend the theefe by Huy & Cry in Essex, hauing the goods about him: Now may that theefe be indited of felony in Essex, but not of Robberie by the high way: for he is a felon of those goods whersoeuer he shall be found with them: But he is no robber by the way, saue onely in that Shire where the way is: *Et debet* (saith M. Bracton) *quisque iure subiacere vbi deliquit.* Albeit the statute (25.H.8: cap.3.) hath now equally depriued him of his Clergie in both the shires.

The name of the person offended.

The certainetie of the name of the person to whom the offence is done, is also in most cases requisite. But yet if the Enditement be *quod bona & catalla cuiusdã hominis ignoti felonicè cepit*, or *quendam ignotum felonicè depredauit*, it is good, because of the Kings aduantage of forfeiture therby, Fitzh. Enditment 12. And by the opinion of Rede and Fineux, Trin 11. Hen.7. (reported by Dier 285.) an Enditement of Affray and assault, in *quendam ignotũ*, is good ynough, because the party is at no mischiefe thereby, seeing that if hee should be afterward Endited of that offence by the very name of the person, (supposed in the first en-

ditement

ditement to be vnknowen) yet might he helpe it by taking auerment, that it was the same & none other offence.

You may see an Enditement (Fitzh. Endit. 9.) *quod A. verberauit, & 20. Iaccos pretij, &c.* was thought sufficient, without shewing to whom the Iackes did belong: whereat W. Stanford (fol. 95.) marueileth, saying that hee saw no cause why it should be good, vnlesse it were for that the matter could not bee made more certaine. But paraduenture certainty in Enditements, was not in those daies thought so needfull as now it is holden.

If the goods of a Person of a Church be taken, the Enditement must by *bona Rectoris*: & not *Ecclesiæ*. And if the goods of ỹ Church, then *bona Parochianorum, in custodia gardianorum*, & not *bona Ecclesia*, 37. Hen. 6. 30. If they be the goods of a Maior and comminaltie, and the Maior dieth before the Enditement, then it shall be *bona communitatis*, saith Marrow: but enquire of that because they haue no such name of Corporation.

If the Enditement be, *quod* A. *verberauit* B. *& vnum equum precij* 20. *solid. felonicè cepit*, and doth not say, *ipsius* B. yet is it good enough 30. H. 6. Fitzh. Endit. 9. But if it bee *quod vnum equum prædict' I. cepit*, and there were no mention of I. before, then it is void, 9. E. 4. 1.

If the goods of a man be taken and he maketh executors, and dieth, the Enditement

shall be *bona testatoris*: but if they were taken after his death, it shall be, *bona testatoris in custodia executorum existentia*: if the Enditement be, *quod A. furatus est tunicam hominis ignoti quæ inuenit mortuum*, that is not good, 11.R.2.Fitz. Endic.15. If a man take away a coat Armour, which hangeth ouer a Tombe in a Church, ỹ Enditement shall say, *bona executoris*, of him whose Tombe it is: but if a graue stone be taken away, the Enditement shall be *bona ecclesiæ*: Marr. If my goods be taken by a Trespasser, and another taketh them from him, the Enditement shalbe *bona* of him which had the last possession. But if I baile goods to one, from whom they be robbed, then it shall bee *bona* of me in his keeping, Marr. If an Enditement be, *bona capellæ in custodia &c.* or *bona Domus, or Ecclesiæ tempore vacationis*, it is good, 7.E.4.14.

The name & the value of the thing.

The name (and value) of the thing in which the offence is cõmitted, ought also to be comprised in the Enditement: for an Enditement of the taking *bona & catalla*, whether it bee in Trespasse or felonie, is not good, for the uncertainety what goods they bee: And if it bee of dead things, it may bee *bona & catalla*, expressing the names thereof in certaintie: But if it be of things liuing, it shall not say, *bona & catalla*, but *equum, bouem, ouem, &c.*

Againe, the value (or price) of the thing is commonly to be declared in Felonie, to make

it appeare from petite Larceny: & in Treſpas, to aggrauate the fault and fine. But yet an Enditement of the taking of beaſts *feræ naturæ*, as Déere, Hares, Partridges, or Pheſãts, is not good, vnleſſe they bée taken in a Parke, or Warrein, that bée liberties, 8.Ed.4.5. So of Charters, becauſe their value cannot be eſtéemed.

In all caſes (ſaith M. Marr.) where the number ought to be expreſſed in the Enditement, there alſo it muſt be ſaid, *pretij*, or *ad valentiã*: as if it bée of the taking of Doues in a doue-houſe, or young Hawkes in wood: And where it is of a liue thing or things, it muſt be *pretij*: and ſo of a dead thing in the ſingular number: but if it be of dead things in the plurall number, then muſt it be *ad valentiam*, and not *pretij*. Againe, if it be of a dead thing that goeth by weight or meaſure, the forme is to ſay *pretij*, and not *ad valentiam*. Pretij, and not ad valentiã, &c.

If the enditement be of taking away Coine, which is not current, it ſhall ſay, *pretij*: otherwiſe it is of money current, becauſe that carrieth his value and price with it. If it be *quod proditorè fecit groſſos, vel denarios*, it ſhall be *ad valentiam*, and it ſhal not ſay, 20. *libras in denarijs*, or *in pecunia domini regis*, but *ad inſtar pecuniæ domini Regis*, Marr.

Sundry other daintie and nice differences doth M. Marr. make, where a mã ſhal ſay, *pretij* & where *ad valentiam*, binding ỹ enditement

to that rule which the Register taketh for the Originall writs of Trespasse: but for as much as Nele 9. E. 4. 26. saith, that Enditements be not tied to that forme, and because that rule of the Register is not very constantly obserued in Trespasse it selfe (as a thing not materiall, in the opinion of Fitzh. in his Nat. Br. fol. 88.) I thought it best to make choise of these (that I haue) for publike vse, and to leaue the rest for priuate learning.

The maner of the fact and nature of the offence.

To the further certainetie of the Enditement, the very manner of the fact it selfe, & the nature of ỹ offence, ought to be mentioned also: for if the Enditement be, *quod* A. *captus profelonia, felonicè & voluntariè ad largũ ire permisit*, this lacketh the certaintie for what felony he was takẽ, & is therby void, 8. E. 4. 3. And so, if the Enditemẽt be, *quod felonicè fregit prisonam apud* A. and do not shew for what felony he was imprisoned there. So if it be that a mã made a hundred shillings of Alchimy *ad instar pecuniæ domini Regis*, and doe not shew liketo what money, as groats, or shillings, &c. it is void, Fitzh. Endit. 10. And therefore, in Murder or Manslaughter, it doth well to expresse the stroke whereof the death ensued, Collection Dier 96.

If the Enditement be, that A. spake such words against the King, and lay them downe in certaine, *vel his similia*: it is voide for the incertainty, *Brooke action sur le case* 112. And if it be,

be, that A. and B. *manu forti intrauerunt in tenementum, &c.* that also is insufficiēt for the like incertaintie: because the word *tenementum* may as well extend to a house or cottage, as to land, meadow, pasture, &c. Dalyson.

So if the Enditement run thus: *Apud C. in comitat. prædict. insultum fecit, & ipsum cum quodam cultello pretij &c. felonicè percussit. & ex malitia sua precogitata murdrauit*: it is not sufficient, without shewing the place where he murdred him, which may be in some other place then where he assaulted him, Collect. Dier. 69 And an Enditemēt of selling tanned leather, was disliked, 1. Ric. 3. 1. because it neither contained the place where, nor the person to whom the leather was sold, both which be materiall and trauersable.

If the Enditement be, that a man is a common thēefe, without shewing especially in what thing, it is nothing worth, 22. lib. Ass. Pl. 75. & 29. 45. And so if it be of a generall extortiō against an Ordinarie, without shewing in what, by 25. E. 3. Stat. 3. c. 9. And so also, if the Enditement stand vpon these termes onely, *Insidiatores viarum, & depopulatores agrorum*, by 4. Hen. 4. cap. 2. And thereupon the Court said 17. E. 4. 4. that vpon such an Enditement, the party shall be dismissed. Howbeit the Commission of the Peace hath the words, *Insidijs iacuerint*, but it goeth further, *ad gentem nostram mayhemandum.*

Neither is it good in an Enditement against an accessary, to say, that he receiued the goods, without telling, that he receiued the Felon, 27.lib.Ass.Pl.69.9.H.4.1.& 25.E.3.39.nor to say, that he *scienter felonem domini regis apud A.recepit*, without shewing what Felonie he committed, 7.H.6.65. nor without telling, that he (knowing it) receiued him feloniously, 7.H.6.c.2. vnlesse he receiue one that is attainted of Felony in the same County: for there he must at his peril take knowledge of the attainder, and so no such mention of knowledge needeth to be vsed, as it is holden, 8.E.4.3. But enquire thereof.

And if such an Enditement be, *Scienter ipsi 4. homines feloniam &c. fecisse, apud D. felonicè recepit*, it is not good, for that it sheweth not, which of them he receiued, 30.H.6.2.c yet, if foure be Endited ioyntly, then are they also each one seuerally Endited therby, 6.E.4.5. Markham.

Nature of the offence.

Concerning the nature of the offence, it is to be obserued, that in an Enditement of Treason (presentable before the Iustices of peace) the word *proditorie* ought to be vsed: In the Enditement of Murder, *murdrauit* is necessary 9.Ed.4.26. and that word alone implieth *ex malitia præcogitata*, Collection Dier, 69. But if without *murdrauit*, it be. *Quod A. occidit B. ex malitia præcogitata et voluntariè*, it is not enough because one man may kill another fa-

in

in a wager of battel, and yet be no Murderer. And for the same reason, if it be of Mãslaughter, must be *felonicè*.

An Enditement was, that the son had taken the sicke father, and caried him into the cold weather, whereof he died, but it was disallowed because it lacked *felonicè*, Fitz. Endit. 3

Againe, if the Enditement be of Burghlarie, then it must be *Burghlariter*, or *ea intentione ad feloniam, siue murdrum faciendum*: for it is not enough to say, *felonice fregit domum mansionalẽ in nocte*. And if it be of Rape then it must say, *felonice rapuit*, for (without *rapuit*) it sufficeth not to say, *felonice cepit Aliciam, & eam carnaliter cognouit*, 9. E. 4. 27. & 11. H. 4. 12.

If it be *furatus est*, it seemeth to Marrow to be good without the word *felonice*, but 18. E. 4. cap. 10. is against him.

If it be *felonice abduxit vnum equum*, it is not of value without saying, *cepit*: neither is *cepit* good alone, without *abduxit*: for it must be *felonice cepit & abduxit*, Fitz. Endit. 4. And if it be *felonice succidit arbores & illas asportauit*: or *vi & armis succidit arbores, & felonice asportauit*, neither of thẽ will make it felony, because ỹ trées be a part of ỹ fréehold, wherof no felony can be cõmitted, 12. lib. Ass. p. 32. But if it be *vi & armis succidit arbores, et eas felonice* (at another day after) *cepit et asportauit*, ỹ will make it felony, as I haue said already. And if the End. be of petit larc. it ought to haue *felonice* in it, 27. H. 8. 27.

And albeit the Enditement be but of a maiheme, it must say, *felonicè maihemauit*, and yet maiheme is no felony, but an hainous, and (as it were) a felonious Treſpaſſe. But wherein an Enditement of felony, the word *felonicè* wanteth, there the Enditement may neuertheleſſe ſtand good to make a treſpaſſe, 2. H. 7. 7. 6. H. 7. 4. & 18. E. 4. 10.

And in an Entitement of treſpas or felony, it ſæmeth that the words *contra pacẽ* ought to be yet vſed: but the neceſſitie of the words, *vi & armis* (viz.) *cum baculis, cultellis, &c.* be taken away by the Statute 37. H. 8. cap. 8. Neuertheleſſe M. Stanford fol. 94. is of the opinion, that it is not amiſſe to vſe thoſe words, ſo long as the circumſtances of ỹ fact do require them for (ſaith he) The cirumſtances of an Act, doe either aggrauate or diminiſh the offence therein.

If the Enditement be of Forcible Entrie, then the words *vi & armis*, be needeles, becauſe they are neceſſarily implied in the word force. Marr. And if the Enditement be founded vpon a Statute, it ought to ſay, *contra formam ſtatuti, in huiuſmodi caſu prouiſi, ac editi*: or when many Statutes doe concerne one offence, (as in the caſe of Liueries and ſuch like) *cõtra formam diuerſorum ſtatutorũ*, without ſpeciall naming of any: and then the beſt ſhall be taken for the King. But an Enditement of a Riot without ſaying, *contra formam ſtatuti, &c.* is

not good, as may appeare in the Trauerſe, ca. 13. following becauſe it is no riot, but by that ſtatute. And yet, it is not of neceſſity, that the Statute be verbally rehearſed, but onely that the offence againſt the ſtatute be ſufficiently and with full words deſcribed, Commentar. 1. & 79.

In the twentieth yéere of Queene Elizabeth, a man was Endited vpon the ſtatutes 1. Eliz. ca. 1. & 13. Eliz. c. 2 for aiding another knowing him to be a principal maintainer of the authoritie of the Sée of Rome, *contra formã ſtatutorum prædictorum*: but becauſe the Enditement wanted certaine materiall words (expreſly mentioned in the acts) viz. vpõ purpoſe and to the intent to ſet forth and extoll the authority &c. the Enditement was thought inſufficient by the greater part of the Iuſtices, (aſſembled for that purpoſe) notwithſtanding the words, *contra formam ſtatutorum prædictorum* were therein contained, Collection Dier 363.

Againe, it is not ſafe to recite the daies or places, of the beginnings, continuances, prorogations, or diſſolutions of the Parliamẽts: leſt by (miſtaking of any of them) the whole Enditement fall to the ground thereby, *Ibidem*, 203.

Thus farre of theſe points by way of ſhort rule and direction: for the better imitation & practiſe wherof, you may vſe the helpe of ſuch formes

formes of Enditement as the Appendix at the end of this worke wil afford you. Now let vs with a few words cõsider what enditmẽts be receiuable by the Iustices of peace, & what ought to be reiected by them.

Enditements to be receiued or reiected.

Generally they may receiue Enditments before themselues, of all causes being either within their Commission, or within the Statutes whereof they haue to enquire. And they may also receiue Enditements taken before the Sherife in his Turne lawfull, that is to say, so that the Turne be holden within the moneth after Easter, or within the month after Michaelmas, & so that those Enditemẽts or Presentments be indented and sealed between the Sherife and the Iurors, and so that they be made by the oath of twelue men at the least, and that those Iurors bee of good fame and *legales homines*, that may dispend yearely 20. ſ. of freehold, or 26. ſ. 8. ð. of copihold, W. 2. cap. 14. 1. E. 3. cap. 17. 31. E. 3. cap. 14. 1. Ed. 4. cap. 2. & 1. Ric. 3. cap 4. And for this purpose the said statute, 1. E. 4. ca. 2. bindes the Sherife to certifie to the Iustices of Peace at their next Sessions the Enditemẽts found in his Turne or Lawday. It seemeth also (by way of admitting) in the booke 27. H. 8. 2. that ỹ like ought to be done of the presentment of felonie in any Leete, by vertue of the said Statute of 1. Ed. 4 ca. 2. But that is further to be enquired of, for I find no better warrant for it.

This

This is certaine, that Iustices of the Peace ught to receiue Enditements found in any eets or Lawdayes vpon the statute made r the breeding of horses: to which end also, e Court holders of such Leets are bound to rtifie the same vnto them within the space 4. daies, 32. H. 8. cap. 13.

But Iustices of the Peace haue none autho-itie to receiue an Enditement, of the killing a man *se defendendo*, saith Stanford 15. as he ad heard say: but enquire further thereof: for hough it be not felony (as appeareth by the tatute of Glouceſt. cap. 9.) Yet be there o-her words in their Commission extending to iue them power to heare and determine of uch an offence. But they are not to receiue an nditement of the killing of a Part proclai-ned, for the Iurisdiction of it belongeth to the ustices of the Forrest. 21. Hen. 7. 30. Fineux. nd (as it seemeth) they may reiect an Endite-ment that findeth any matter of Record, as Utlawrie, or such like, vnlesse it be shewed nto ỹ Iurors *sub pede sigilli*: for Iurors are to ind matters in deed only, and not of Record, 1. H. 7. 6. & 3. Hen. 7. 1. & 10. And so, if the herife will offer Enditements of Liueries, anishment of Women, or of Felonies by tatutes, or of such other causes (whereof hey haue no power to enquire in their turns) the Iustices of the Peace ought to reiect them, 4. E. 4. 31. 8. Ed. 4. 5. 22. E. 4. 22. and Stanf. 87.

Thus

The dutie of Iustices about Enditements.

Thus much for the better assistance of our Iustices of the Peace, I thought meet to say of Enditements: not onely because they be the chiefe base, and groundworke whereupon the whole triall is afterward to be built and framed: But also because the Iustices (being Iudges of the Court) ought of Office to see that the bils of Enditement haue sufficient matter and forme in them, 24.E.3.74.

And for that end, it is the manner (in some places) to commaund, that the Enquest take no Bils, but only such as ỹ Iustices thẽselues haue first perused. Howbeit, as it is certain that the Enquest may safely doe the contrary, so long as the Bils doe carrie good matter and allowable forme: so I will aduise, that the Iustices shal rather peruse the Bils after that the Euidence shall be thereupon giuen to the Iurie, then to put their pens into them before the Enquest shal be enformed: taking it to be, not only no hinderance at al to the seruice, but also the most warie and secure way for the Iustices themselues to walke. For though it be said (35.H.6.14.& 12.E.4.18.) if a Bil of Enditement be deliuered to a Iustice of Peace, at (or before) the Sessions, which he promiseth to read, and to deliuer to the Iurie, & so doth accordingly, that he shall not be charged for it in a Writ of Conspiracie: yet may it be thereupon doubted, whether he shall be excused, if (vpon conference had) he doe busie himself in

ther

ther to draw, engrosse, or amend the Bill be-
ore it be preferred to ỹ Enquest that shal haue
t. And seeing that the Iustices doe commonly
eceiue the bils from the Enquest, with their
xpresse assent to amend any defect of certain-
ie in the forme only: ẽ may also award Venire
acias against the Enditors to amend a bil vp-
n their first oth, at any time before it be remo-
ed, (8.H.5.7.& Sta.97.) so that the businesse
s not a whit impeached by this forbearance,
here is no cause (as I thinke) for the Iustices
f the peace to anticipate the matter before ỹ
ight time: but rather to leaue the first draw-
ng and ingrossing of the Bils, to the Clarke
f the Peace or other Ministers of the Court,
nd (after the Euidence giuen) then to consi-
er, whether they be formall, or ought to be
reformed.

Of the presentments and Informations of Officers, and other men.

Cap. VI.

HAuing shewed how these Iustices take knowledge by the labour of the Iurors in Enquests: it followeth to declare also how they may haue vnderstanding by other men: And that is to be done, either by the presentment of publique officers, or by the Information of priuat persons.

An

Presentmēts of Iustices of Peace and Constables.

In some cases therefore, these Iustices may heare one another, for euery Iustice of ỹ peace may (vpon his proper knowledge) make Presentment at the Sessions, of any offence done against the Actes (2.& 3.Phil. and Mar.ca.8. & 5.Eliz.cap.13.) concerning the amendment of the highwayes. And in this, and such like cases, his report hath the force of a Presentment of ỹ. men: So that he and his fellowes may proceed vpon it, 21.H.6.5.

Of like value is a presentment made at the next Sessions by searchers appointed to examine the true making of Tile, 17.Ed.4.ca.4. And of some such like strēgth also (as I think) is the presentment of the Constables, concerning sundry points contained in the statute of Winch.13.E.1.

But I doubt, whether any such force be in a Presentment there made by the Surueyors of the highwayes in the Wealds of Kent, &c. by order of the Statute 39.Elizab.cap.19. For (as I thinke) that amounteth to none other, but onely to giue matter to the Iustices of Peace, to charge the Enquirors therewithall.

Information by priuate men.

The Court may also be giuen to vnderstand by the meanes of priuate men: and that either for the King onely, or for the King and themselues, or (in some speciall cases) for thēselues without the King.

That which is for the benefit of the King,

or for him and the party, is sometimes moued by the free offer of him that openeth the matter, and sometimes wrought by commandement of the Court.

Free and voluntarie Information.

The free motion of the partie, is sometimes by word onely, which is properly but a Suggestion: and somtimes by writing, named a Bill, plaint, complaint, or information: al which be not alwaies of one force in this businesse.

For, albeit that we read (1. Ed. 5. 6.) that the Court of Chancerie wil sometimes both take knowledge, and also award Processe vpon an Information by word in the behalfe of the Prince, and that 39. H. 6. 41. also admitteth such a matter: Yet I thinke that before Iustices of the Peace, these Suggestions and Informations both (be they by word, or writing) are but of the force to stirre vp the Iustices to recommend the cause to the Enquest, and not to award any Processe vpon them: vnlesse it be in certaine cases, where that validitie is specially giuen them by the statutes, as you shall hereafter perceiue.

There was once a time (I confesse) when Iustices of ỹ Peace might haue awarded processe vpon an Information (for the king only) of offences against any penall Laws, euen as they may yet vpon Enditements against the Peace: but that lasted not long, and therefore that course is holden now in special Statutes only.

Neuer-

Proclamation

Neuertheleſſe, at euerie Seſſions (ſaith Iudge Priſot 35. H. 6. 15.) the Iuſtices of the peace doe vſe to make Proclamation, that if any will informe for ỹ Prince, he ſhal be heard: and thereupon any man may come in, & may both informe the Iuſtices of the peace, & giue euidence to the Enqueſt, without danger of conſpiracy, by the opinion of the Court in the laſt ſaid Booke.

And as that which ariſeth vpon Preſentment or Enditement, is properly called ỹ ſuit of the King, (as I told you out of M. Fitz.) ſo this other (whether it be Bill, Plaint, Complaint, or Information) is more aptly termed the ſuit of the partie: at whoſe ſuit, the Iuſtices of the peace, may heare of diuers offences, either for himſelfe, or for the King. And in other Statutes at large ſuch Rules are to bee followed, as they themſelues doe preſcribe.

In this information, the Statute of Additions (1. H. 5. cap. 5.) ſeemeth vpon the barr words to haue no place: for Informations be not mentioned in it: and vpon that reaſon, ỹ Court (13. H. 7. 21.) did hold it cleere, that if Reſcous be returned by the Sherife againſt certaine perſons, without their Additions, yet in that caſe they may well bee outlawed vpon it.

Forced information.

The other compulſorie Information, groweth by examination of witneſſes called into the

the court, and is set forth in the statute of Drouers and Badgers (5. Eliz. cap. 12.) where it appeareth, that (vpon the examination of two lawfull witnesses) the Iustices of Peace may make Proces, as if it were vpon an Inquisition of twelue men. The like might they haue done vpon the Statute of Armour 4. & 5. Phi. and Mar. cap. 2. (which is now repealed by 1. Iac. cap 25.) And the derie like also may they do vpon the Statute made against Forestallers, 5. Ed. 6. cap. 14. which last said Statute seemeth (for this point) to haue bin followed, as a Paterne, by the other two: so rightly they tread in the steps of the same. Hereunto also you may adde the examination of the Master and Mariners of Ships, wherein Corne or Victuall shalbe transported against the meaning of the statute, 1. & 2. P. & M. ca. 5.

Thus much, of ỹ knowledge of causes exhibited by such as either do it at large for the K. onely to haue the offence punished, or be specially allured therto by regard of benefit growing in common to them with the King therby. Now of those that seeke to informe the Court for profit insuing to themselues alone.

Suit betweene parties.

The knowledge that commeth this way, is by the priuate suit and proper action of ỹ partie, and is therefore in the statute (11. H. 6 ca. 6.) termed a suit between party & party: whereof that statute hath no lesse consideration, thẽ of those other suits that be for the King him-

ſelfe: and therefore prouided, that they alſo ſhould not be diſcontinued by new Commiſſions of the Peace to be made.

I know that there bee not many Statutes which do giue power to the Iuſtices of peace, to hold plea of Action betweene partie & partie: And I thinke it hath not been often experimented vpon thoſe verie ſtatutes which doe giue it: and how the Iudges do expound this preſent Statute (11.H. 6.) I cannot tell. Neuertheleſſe, becauſe I may neither wittingly conceal any ſuch part of their authoritie, & iuriſdiction, (although it were ſo but in mine owne opinio) nor ſafely report it without ſome proofe and warrant, I will giue you a few examples of this kind (as I take it) & will leaue the reſt to further ſearch.

The Iuſtices of Peace haue power to enquire, heare, and determine, of al the defaults againſt the ſtatute (made 3.H.6.cap.11.) concerning the leuying of the wages of Knights of the Parliament, aſwell by enquirie at the Kings ſuit, as by action at the ſuit of ỳ party.

So may they heare, and determine by Information, Action of debt, or Bill, the offence againſt the ſtatute of Laborers, 5.Eliz. 4. And likewiſe by Information, or any other Action, the offences of taking Fiſh. Deere, or Hawkes forbidden in the ſame Parliament, cap. 21.

In which, and ſuch like, the Iuſtices of peace ought to proceed after the vſual maner of other

Courts

Courts of Record at the Common Law (if I do not mistake it,) and therefore I will go no further with it, but will prosecute that hearing and determining that more properly & commonly pertayneth vnto them, if first I may shew you, how they are sometimes preuented in that behalfe.

Of the impediments of proceeding vpon *Enditements*, *before the Iustices of peace*, and therewithall of the *Certiorari* to remoue Records.

Cap. VII.

IT falleth out not seldome, that when Iustices of the peace haue taken an Enditement found before them, they cannot proceed to hearing and determining vpon it: either because it is grounded vpon some such Statutes as giueth vnto them no further power, but onely to inquire thereof: or else because the Enditement is taken out of their hands by *Certiorari*, & conueied to Iustices of a higher authoritie, at the sollicitation, and by the meanes of some parties grieued, to the end that they may either trauerse it aboue, or there auoide it for insufficiency of forme, or matter.

Where Iustices of Peace may inquire oneiy.

And therefore Iustices of the Peace may only inquire of certaine the offences against the Actes (1. Eliz. cap. 2. and cap 3. 5. Eliz. cap. 1. 13. Eliz. cap. 2.) touching the knowledging of the Kings Supremacie, or the seruice of God, or comming to the Church, or the establishmēt of true Religion: As you may see, 23. El. ca. 1.

And they may only inquire of any the Treasons, or misprisions of Treasons, made by the same Act, 23. Eliz. cap. 1.

In the rest (so far as I haue found) their power of Enquirie is accompanied with the authority to heare and determine also. For this want of Iurisdiction is not found in the Commission of the Peace it selfe, but only in certaine Statutes, that (for weighty causes) do restraine this further proceeding.

By what meanes such Enditements shal be remoued to those higher Courts, I will shew you when I come to speake of Certifying the Records of the Sessions, and will now goe on with those other Enditements that be remoued by labour of the parties.

Enditements remoued by labour of the parties.

Albeit that in the remouing of Pleas, between party & party, from inferiour to higher Courts, by Tolt, Pone, Recordare, &c. there was wont to be a probable cause alleaged, for which the same were remoued: yet in this case of the Crowne there needs no cause to be comprised in the writ of Certiorari, because they are the Courts of the King, against whom the offence

offence is committed, and it bréedeth neither iniurie to the offendor, nor losse to any other person, in what Court soeuer the offence bée tried.

This *Certiorari* then, may command either the Record it self, or *tenorem Recordi*, to be sent vp, & it ought to be obeyed accordingly. For, vpon faile therof, first an *Aliàs*, then a *Pluriès*, (*vel Causam nobis significes*) and lastly, an Attachment shal go out against them that should send it, as M. Fitzh. noteth in his Nat. Br. fol. 245. but I haue heard, that they vse a *Subpœna* at this day.

And albeit the *Certiorari* be a *Supersedeas* of it selfe, yet may the partie vpon the *Certiorari* purchased, haue a *Supersedeas* also, directed to the Sherife, and commaunding him that hée arrest him not vpon that Record before the Iustices of Peace, Fitzh. ibid. fol. 237. In which place also he doubteth, whether the Iustices of Peace themselues ought of dutie to award their owne *Supersedeas* to the same effect, after that the writ of *Certiorari* is brought to their hands.

This writ of *Certiorari* is euer directed to ỹ Iustices of Peace, & yet (as you haue heard) the Custos Rotulorum only hath the kéeping of these Records, but the auntient Commissions of the peace had no Custos Rotulorũ specially named in them (as I haue told you) and then this certifying belonged to thẽ al, which

forme the writ retaineth to this day. And if it fal in question, whether such a *Certiorari* were deliuered to the Iustices of Peace, or no, that must be tried (saith the booke 10.H.7.24.) by the verdict of xij. men.

Now, if a *Certiorari* come to the Iustices of Peace to remoue an Enditement, & the partie sueth not to haue it remoued, but suffereth it to lie still, then the Iustices of Peace may proceed, notwithstanding the Writ, as Hubbert the Kings Attourney said, 6.H.7.16. For otherwise the triall of a Felon (if the Enditement were of Felony) might be delaied & deluded also. But yet Keble held opinion against him, and was fearefull that in such a case it might proue Felony to make execution of the Felon after such writ receiued: and (to say the trueth) the Iustices ought of office to send it away, because the writ containeth in it selfe a commandement to them so to do.

And if a *Certiorari* come to the Iustices of peace to remoue an Enditement, and in truth the Enditement was not taken till after the date of that *Certiorari*: yet, if the Enditement be remoued therby, it is good ynough, for that they both be the K. Courts, 1.R.3.4. & in such a case it is now vsuall to remoue it.

The maner of the Certificat.

In the making of a Certificat vpon this *Certiorari*, the Iustices of the Peace ought neither to omit that which doth authorize them, nor to exceed that authoritie which belōgeth vnto them:

them: For one the one side, if they certifie an Enditement of Felony, or of a Riot (as taken *coram Iusticiarijs ad pacem*) it was not thought ynough, without saying further, *Necnon ad diuersas felonias, &c.* & otherwise, it was doubtful whether the Enditée shalbe quite dismissed or no, because the Iustices of Peace had then no Record at all remaining with them (for the Clarke of the peace maketh his entrie accordingly) and that Record which they sent vp, is insufficient. And therefore the Clarke of the Crowne was forbidden to receiue any such Certificate, 12.H.7.25. But happily the new words in the reformed Commission of ỹ peace, will now dissolue that prohibition.

On the other side, if they certifie an Enditment of felony not determined in the K. bench they ought not (without warrant) to certifie an other Record of ỹ acquitall of that Enditée for the same matter: for nothing ought by thẽ to be sent thither without warrant, but that which is Executorie, and needeth the helpe of that higher Court, 8.E.4.18.

And if a *Certioari* be, to send vp the Enditement of A. in which Enditement some others bee endicted together with the same A. yet neede not the Iustices of Peace to make Certificate concerning any but A. 6.E.4.5. For although they be named iointly, yet be they endicted seuerally (as I haue said before) and the

King may pardon A. without forgiuing the other, 6.E.4.5.Mark.

Again, if the Enditement be of the stealing of two horses, and the *Certiorari* speaketh but of one horse: it seemeth that they neede not to certifie it at all, because of the varience: for it is certaine, that they of the Kings Bench will not arraigne the Enditee vpon it: but wil rather write againe to know, whether there bee any Enditement that agreeth with the Writ, 3.Lib.Ass.pl.3.Cur.

Finally, it is noted (8.H.5.5.) that Hankeford the chief Iustice of the Kings Bench, obserued this order, that he which brought thither an Enditement (taken before Iustices of the peace) should endorse his name vpon the backeside of it: which I note, not to teach the of the Kings Bench, but to let the Iustices of Peace see, that there is some heed to be taken of him by whom they send vp their Enditements.

Of

Of the ſundrie ſorts of Proceſſe vpon Enditements and Informations: and of the Superſedeas for ſtay of them.

Cap. VIII.

THe Court being thus made priuie & poſſeſſed of cauſes, muſt of duty proceed to the handling (or hearing) and triall of them: ỹ which becauſe it cannot indifferently doe, vnleſſe it kæp one eare for the offendor, that he alſo may be heard in his own diſcharge, as others were heard to lay the charge vpon him: the maner is (if he be abſent) to award Proceſſe againſt him, to come in, and to make his anſwere.

But if he be preſent in Court, & confeſſe the Enditement, then nædeth there no proceſſe at all: for he ſhalbe committed forthwith to priſon, vntil that he hath made his fine, or giuen ſureties for it, 1. H. 7.

Commonly an Enditment, or Information (being but an accuſatiõ or declaratiõ againſt a man) is of none other force, but only to put him to anſwer vnto it. And heereof all Proceſſe hath the name, becauſe it proceedeth (or goeth out) vpõ former matter, either original or iudiciall. Proceſſe whereof it is is named.

Howbeit I make difference, whether this pro-

proceſſe be grounded vpon an Enditment, or vpon ſome other information: for they be not all one, vnleſſe it be (in a few ſtat.) ſo ſpecially prouided: although the ſtatute (32.H.8.c.10.) did once conioine and couple them.

Authoritie to make out Proceſſe.

The authority of making Proceſſe vpon indictments is giuen by expreſſe words in the Commiſſion: and in other caſes (where it is not namely giuen) it is implied of congruence (or rather of neceſſity) in the words heare and determine, which cannot be performed, vnleſſe ỹ party either do come in gratis, or be brought in by the power of Proceſſe.

This Proceſſe ought alwaies to bee in the name of the King thus, *Iacobus Dei gratia &c. Vicecomiti Kanciæ, &c.* And therfore alſo (ſeeing he is partie) it muſt ſay, *non omittas propter aliquam libertatem quin &c.* Fitz. Prerog. 21.

Teſte of the Proceſſe.

And ỹ Teſte therof may be vnder the names of ſome two Iuſtices, ſo that it bee made ſitting the court in the Seſſions, Commiſſion del Peace, and Broke tit Peace, 6. & 7.

New Commiſſions of Peace doe not diſcontinue. the old proces.

But now whereas the Commiſſion giueth to the preſẽt Iuſtices, authority to make proceſſe vpon Enditments, taken aſwell before former Iuſtices, as before themſelues: al that doing was wont to be diſcontinued in law, by the comming out of a new Commiſſion of the peace, vntill that the ſtatute 11.H.6. ca.6. did eſtabliſh, that no pleas, ſuits, or proceſſe (to be taken before Iuſtices of the peace) ſhould be diſcon-

diſcontinued by a new commiſſion of ỹ peace to be made: but that they ſhould ſtand in their ſtrength, and that the Iuſtices (aſſigned in the ſame new Commiſſion) ſhould haue power to continue the ſame, and to heare and determin all that which dependeth vpon them. And of the like effect there is a branch in the later end of the Statute 1.Ed.6.ca.7.

Endictment before ſheriffe

Furthermore, whereas Sherifes (and their Bailifes) vſed to arreſt men, & to proceed vpon Endictments found in their Turnes, or Lawdaies: another ſtatute (made 1.Ed.4.cap. 2.) wringeth that power out of their hands, and deliuereth it ouer to the Iuſtices of the peace: appointing them to proceed vpon them, as if they had béene found before themſelues.

Proceſſe of Vtlawrie.

Now ſéeing that this Proceſſe of the Seſſions is ſent out to his end, that either the party ſhall come in, to anſwere and to be iuſtified by ỹ law, or elſe that he ſhal (for his contumacy) be depriued of the benefit of law (for ſo much in effect do ỹ words of the Cõmiſſion, *Quouſque capiantur, reddant ſe, aut vtlagentur*, import in thẽ:) it followeth that in al caſes of Endictments (if the party be returned inſufficient) the Proceſſe of Vtlawrie, lieth againſt the offendor, if he be not taken before, or doe not otherwiſe offer & yéeld himſelfe. And then the power of theſe Iuſtices endeth with ỹ vtlawrie: for they can make no Capias Vtlagatum, but

but muſt certifie the Utlawrie into the Bench of the King.

A good while after that Commiſſions of the peace were firſt awarded, there was not giuē by them any power to make out any proceſſe of Utlawrie: for I haue told you of a Cōmiſſion of the Peace (20. Ed. 3. Part 1. Patent in dorſo) wherein were words authoriſing the Commiſſioners to arreſt all ſuch as ſhould be endicted before them: but by and by this followeth there, *Et ad nomina eorum qui fugerint, & coram vobis iuſticiari noluerint, certificādum in Cancellaria, &c.* So that if they might not get them arreſted, they could go no further, but to certifie their names only.

The generall Proceſſe vpō Enditements of Treſpaſſe.

Now the meane to this Utlawrie is not all one in all caſes: for, vpon Endictment of Treſpaſſes againſt ỹ peace, or ſuch other contēpts, the Proceſſe is one: and vpon Endictment of Treaſon (or Felonie) it is another.

Upon Enditements of Treſpaſſe againſt the Peace, of Conſpiracies, & of Routs, in preſence of the Iuſtices, or in affray of the people, if the offendors may not be found, nor brought in by Attachement, or Diſtreſſe, (by reaſon of their inſufficiency) the Proceſſe of Utlawrie is to be awarded by the Statutes, 18. Ed. 3. Stat. 1. & Stat. 2. cap. 5. The like is againſt ſuch as be endicted vpon the Statute of Liueries, 8. Hen. 7. cap. 4.

And a Venire facias firſt, and then (if there-

upon

upon he be returned ſufficient) a diſtringas, & ſo the ſame Proceſſe infinite til he come in: but if a Nihil habet, &c. be at the firſt returned againſt him, then a Capias, Alias and Pluries, & after an Exigent (as it ſæmeth by M. Marrow, and the old precedents agréeing with the common courſe, as I take it) is the verie ordinary Proceſſe vpon al Endictments (not ſounding in felonie, or greater offence) whether they be of Treſpas againſt the peace, or of contempt againſt penall lawes: vnleſſe it be otherwiſe ſpecially prouided by thoſe ſame ſtatuts wherupon ſuch Enditements be altogether grounded. And of this ſort theſe be, or were ſome.

Speciall Proceſſe.

The ſtatute (22. H. 8. c. 5.) concerning Bridges in highwaies, alloweth ſuch Proceſſe as the Juſtices of the K. Bench do vſe, or ſuch as the Juſt. of the P. themſelues ſhal think meet by their diſcretion, for the ſpeedy amendment of thoſe Bridges.

Upon Endictments of Liueries, maintenance, Archerie, vnlawfull games, &c. by the ſtatute (33. H. 8. ca. 10.) there was giuen one Venire facias, one Capias, & then the Exigent: But it is to be weighed, whether the ſtat. (37. H. 8. cap. 7.) which vtterly repealeth that ſtat. (33. H 8.) do tranſferre the maner of that proceſſe vnto the auncient Quarter Seſſions (as it doth ſundrie other parts of the ſaid ſtatute) or no.

The ſtatutes of Labourers (23. H. 6. ca. 13.) gaue

gaue (after the Enditements grounded thereupon) an Attachment, Capias, & Exigent: But I think it no great doubt, but that point is taken away for Labourers, by the ſtatute 5. El. ca. 4. and ſtandeth good for none, except it be for Victuallers only.

Proceſſe vpon Recogniſance.

The Statute 5. Ed. 6. cap. 25. giueth power to ỹ Iuſtices of peace, to enquire of Alehouſe kæpers, whether they haue done any act to the breach of their Recogniſance. And if any matter be preſented, thẽ to award Proces againſt the offender, to ſhew why he ſhould not forfeit his Recogniſ. but what this proces ſhall be, I will not determin: For, I do not find, ỹ in any other caſe (though it appeare that a mã hath forfeited his Recogniſance) the Iuſtices of the peace can award any Scire facias, or other Proceſſe to call him in vpon it: but rather to certifie the ſame into higher Courts, that from thence Proceſſe may iſſue out, to call the partie to his anſwere.

Proceſſe into other ſhires.

Some other ſtatutes there be alſo, that haue extended the authority of the Iuſtices of peace (in ſending proces) beyond the boũds of their own Commiſſion. For by the ſtatute (1. Ed. 6. ca. 1.) three Iuſt. of the Peace (the one being of the Quorum) may make Proces againſt ſuch as be therupon endicted for deprauing the Sacrament, by two writs of Capias, and the Exigent, and by Capias vtlagatum, into any place within the K. dominions.

So

So, if a ſeruant depart into another Shire, the Iuſtices of the peace of that Shire, (where the departure was) may grant writs of Capias to the Sherife of that other Shire (where the ſeruant is) returnable before themſelues, 3. Eliz. cap. 4.

The like may they doe (by the Statute 22. H. 8. c. 5.) where a decaied Bridge lieth in one Shire, and the perſon or lands (chargeable thereto) do lie in another Shire.

They may alſo award Proceſſe of Attachment into any forrein ſhire againſt ỹ accountants for money leuied towards the making of any Gaole, 25. H. 8. c. 5. & 5. Eliz. cap. 24.

But if the Endictment be in one County, and the enditée be named to be (then, or *nuper*) dwelling in any other Countie, there is a ſpeciall courſe of proceſſe in that behalfe for his benefit, appointed by the ſtat. 8. H. 6. c. 10. both for treaſon, felonie, and treſpas.

For (before any Exigent ſhall be awarded) one Capias muſt be ſent out, & returned: and then a ſecond Capias ſhal go (into the County where he is ſuppoſed in the Endictment to be, or to haue been conuerſant) returnable before the ſame Iuſtices of the P. before whom the Endictment was taken three moneths at the leaſt after the date therof (for all Counties be now holden from moneth to moneth by 2. E. 6 ca. 25.) by which laſt Writ the Sherife ſhalbe commanded to take the Enditée, if he may be found

found within his Bailiwike: and if not, then to make proclamation in two Counties (before ỹ returne of that writ) that ỹ enditée shall appeare before the said Iuſtices of ỹ said county (where the Enditement was taken) at the day contained in ỹ laſt ſaid Capias, to answer to his offence: at which day if he come not, then the Exigent shal be awarded against him, and otherwiſe not.

And by the equity of this ſtatute of 8. H. 6. ca. 10. (ſaith M. Mar.) if the Enditée be imprisoned in another county, the Iuſtices of B. may award an Habeas Corpus to remoue him before them.

But if it be mentioned in the Enditement that the enditée is dwelling in another County, by the *Aliás dictus* onely: then it is out of the caſe of that ſtat. 8. H. 6. becauſe the *Aliás dictus* is not to be trauerſed, 1. Ed. 4. 1.

Superſedeas to ſtay Proceſſe.

But yet you muſt preſuppoſe, that all this Proceſſe of outlawrie may be ſtaied by a *Superſedeas*. And M. Fitz. in his N.B. (f. 137.) hath the caſe, that if an Exigent go out vpon an Enditement of Treſpaſſe (found before Iuſt. of P.) the partie may find ſureties in the Chancerie (body for body) to appeare at the day of the writ, and may then alſo haue a Superſedeas from thence to the Sherife, commanding him to forbeare to take him, & to let him go if he shall haue already taken him for that cauſe. And againe, you may ſee in ỹ new Booke of Entries

fol. 546.) the Proceſſe vpon ſuch an Enditement ſaied by a *Superſedeas* iſſuing from one Iuſtice of the peace alone, and teſtifying that the partie came before him, and found ſuretie *de Fine aſſidendo*. But as I beléeue the former, ſo will I not perſwade the practiſe of ỹ latter: becauſe I thinke it not in the lawful power of any one Iuſtice of the peace, to award any ſuch warrant, but that it muſt be done by two Iuſtices at the leaſt, the one being of the *Quorum* alſo) as the Commiſſion now ſtandeth.

Proces vpon Enditements of Treaſons & felonies, &c.

I haue yet to ſpeake of Proceſſe vpon Enditements of Felonies, wherein I will bee short that I may paſſe ouer to other things.

It ſeemeth by M. Mar. that the Proceſſe at the Common Law vpon Enditements of felonie, was but one Capias, & then the Exigent: For ſo it was vpon an Enditement of death, lib. Aſſ. 22. pl. 81. and Stamf. 67. But the olde Precedents (grounding themſelues vpon the Statute 25. E. 3. ca. 14.) do vſe the mentiõ of two writs of Capias, before the Exigent. For that Statute prouideth, that after returne of *Non eſt inuentus*, vpon the firſt Capias, an other Capias ſhall be incontinently awarded, whereby the Sherife ſhalbe commanded to ſeiſe the cattels of the Enditée, and ſafely to keep them till the day of the Capias returned: and if hee then alſo returne *Non eſt inuentus*, and the Enditee commeth not in, the Exigent ſhall bee awarded, and the cattels ſhall be forfeited: but

if he come and yeeld him to bee taken, before the returne of the ſecond Capias, thē the goods and cattels ſhall be ſaued vnto him.

Proceſſe into forraine Shires.

And heere alſo the Iuſtices of peace haue power to ſend into a forraine Countie, for, whereas by the common Law, no man could be Attached vpon an Enditment, or Utlawry of Felonie, but onely in the County wherein he was endited or outlawed, whereby many euill men were much encouraged: the ſtatute 5.E.3.cap.11. did take order that Iuſtices (aſſigned to heare & determine Felonies) might direct their writs to any County in England, to take ſuch Enditées whither ſoeuer they were remoued.

On the other ſide, if the Enditement be found in one Countie, & the Enditée is therein named to be then dwelling in an other Countie: I haue told you already (in this Chapter) what proceſſe belongeth to it, & therfore I will in hand with Proceſſe vpon Informations.

Proceſſe vpon Informatiōs.

The power of making Proceſſe vpon Informations proceédeth from ſpeciall Statutes, and may not therefore varie from their direction, although they thēſelues do varie greatly one from another.

Liueries.

For vpon an Information giuen for the King before Iuſtices of the Peace, vpon the Statute of Liueries (made 8.E.4.cap.2.) they ſhall award ſuch Proceſſe as is made vpon an Originall writ of Treſpaſſe done againſt the

King

Kings Peace: because the Information it self is (by force of that Statute) in stead of an Original writ.

And vpon Information made vnto them, that an Alehouse-keeper hath done any act whereby he hath forfeited his Recognisance, they may (as I said) award Processe against him, to shew why he should not forfeit his Recognisance by the statute 5. Ed. 6. cap. 25. But learne if that be meant of a *Scire facias*, or of some other Processe. For the rest, I leaue them to further search of such as shall haue cause to marke them. Alehouse.

Of Hearing, vpon Confession.

Cap. IX.

THE partie being thus brought in (or otherwise yeelding himselfe) to answere, Iustice requireth, that he be heard to speake, and therefore he may (as his case will serue) either confesse, or denie, the offence wherewith he is burdened.

And this Confession is of two sorts, Free, or Forced: and that former is of two kinds also, absolute, or after a manner.

In the free and open (or absolute) confession he taketh the fault vpõ him, and yeeldeth himselfe Free confession.

selfe simply to such paine as the Court will in-flict for it.

And this free confession is of great force in the Law: for if it be vpon an Enditement of Batterie, and (after such confession had for the King) the partie beaten will also bring his Action of Trespasse for his owne damage: this shal the defendant be concluded by his former confession vpon the Enditement, so that he shall not be receiued to say the contrarie, 9. H.4.8.& 11.H.4.65.

But the other (which I call confession after a maner) is onely a not denying, in which the partie doth cunningly, and (after a sort) take the fault vpon him, without plainly confes-sing himselfe guiltie thereof: as where he put-teth himselfe in *Gratiam Regis, & petit admitti per finem*, without any more, sometime (by Protestation that he is not guilty) pleadeth his pardon: and such a confession (if I may so cal it) doth not so conclude him, but that he may afterward plead Not guiltie in any action brought against him, 9.H.6.60.Cur.& 11.H. 4.65. And yet M.20.R.2. (as M.Statham re-ports) ỹ case is generally set downe, that if he once make a fine, he, shall be estopped by it. Neuertheless I thinke, that the distinction (which I haue laid) will reconcile the variance.

But here it is good to learne (whether the Iustices be compellable to admit such a confes-sion by a manner, being altogether deuised for fauor

fauour of offendours, and for deceiuing of the King: or whether they may driue the partie either to an absolute confession (for increase of the fine) or to his Trauerse, that (failing therin) he may be imprisoned, and fined also.

The forced confession whereof I spake, is that which the Justices doe wring out of the partie by the examination of himselfe, in such cases wherein that examination is permitted: But because I intend to speak of examination by it self, I will reserue this till I come to that. Forced Confession.

Of hearing by Discretion.

Cap. X.

Whether the offendor shal freely confesse the fault, or finally yéeld himselfe to Grace, or plead his pardon without confessing it, yet then is that matter fully heard, and the Court made readie to determine of it: But if he shall deny the fact, then must some other course of hearing (or triall) be taken for it. Denial of the offence, tried.

And that is in some cases by Discretion of the Iustices: in some other cases by Examination of the parties, or witnesses: and in some other cases by certificat of other men: but in most cases by Trauerse or Arraignment, both which last trials are performed by the verdit of xij.

For Iustices of the Peace cannot (vpon an Inditement of Maihem) make the triall by their owne view or inspection, as the Iustices of the Kings Bench may doe, saith Marr.

The Statute 11.H.7.cap.3.pretending that offences (committed against the Statutes of Riots, Retainers, Maintainers, Embracerries, Extortions, Unlawfull games, and such like misdemeanors) were neither accordingly punished before Iustices of the Peace, (by reason of the great corruption and fauour of the Enquests, sworne and charged thereupon to inquire before them) nor could be otherwise conueniently corrected by order of Law, vnlesse they were found and presented by twelue men thereto duely sworne: did enact, that from thencefoorth Iustices of the Peace, vpon information made (for the King) before them, should haue full power by their discretion to heare and determine all offences and contempts against many penall Lawes then in force, and not repealed.

But as one said, *Ex bonis Legibus male exempla:* so, the Parliament, 1.H.8.cap.1.complained, that many men were deceitfully intrapped, and wrongfully condemned thereby, and therefore it resumed that power: yea, and the King withall chopped off the heads of some of them that had filled his fathers purse by the Execution of that and some other Penall Statutes.

So that now againe the triall of offences ought for the most part) to proceed, either after the generall order of the common Law, or vpõ such speciall examination) or other proofe) as some statutes doe giue in speciall cases: and this hearing at libertie and discretion, hath seldome any place.

But whersoeuer it is permitted, that counsell which M. Bracton lib. 1. giueth, is to bee harkened vnto: In Iudiciall hearing (saith he) besides the bodie of the fact it selfe, these seuen circumstances are to bee weighed, namely the cause, the person, the time, the place, the quantitie, the qualitie, and the euent.

And for proofe, that hearing by discretion, is yet in some sort suffered, take this for example.

The Iustices of peace may heare by their discretion, aswell by examination, as otherwise at the suit of the King, or of the party, the offences done against the Statute prouided for the true making of Tile, 17. E. 4. c. 4.

But how farre this discretion, and the word Otherwise may be extended in this, and such like cases, it cannot well be foretold, for it is referred vnto them, and they must take counsell *ex re, & ex tempore*, for it.

Of Hearing (or Triall) vpon Examination.

Cap. xi.

THe obstinacie of euil doers, that would shew no conscience in acknowledging of their faults, and the corruption of Iurors that would present nothing that lay onely in their own knowledges, haue begotten and brought into our Law, this triall by examination, wherewith it was not before acquainted.

And yet this manner of triall is not loosely permitted to Iustices of the peace, but in cases onely, where either the Statutes do generally referre the triall to their discretions, or else doe specially authorize them to take Examinations.

Examination of the parties.

The Examination then, is sometimes of the offendors themselues, sometimes of witnesses that can speak to the matter, and sometimes both of the parties and witnesses: of euerie of which I will giue you an authority or twaine, and leaue the rest to your own reading and examination.

The

Liueries.

Upon apparance (after Proceſſe) againſt the Offendors of theſe ſtatutes of Liueries, the Juſtices of peace may examine them, and thereupon conuince them, ſo as if they were therof conuict by Enqueſt, 8.H.6. cap.4. and 8.E.4.cap.2.

Deere haies, &c.

They may alſo call vpon them, & examine all ſuch as ſhalbe ſuſpected to kæp Dære haies or Buckſtals, or that vſe to ſtalke, or to take young Herons againſt this Statute, and may (finding them faultie) commit them to priſon, till they finde ſureties to pay the forfeiture, 19 H.7.cap.11.

Examination of others.

And becauſe it is often ſeene, that thoſe which haue committed an offence, will alſo increſe their fault by denying the ſame, therefore ſome Statutes (as I ſaid) doe appoint, that the Juſtices of the peace ſhall take the examination of others, beſides the Offendors themſelues.

Falſe tokens.

And thereupon, ỳ vſers of falſe priuy tokens or of counterfait Letters, may be tried out by the examination of witneſſes, 33.H.ca.8.1.

Hawkes egs.

And the vnlawfull takers of Hawks egges, or Swannes egges, may be detected and conuinced by Information, and ſuch proofes, 11. H.7.cap.17.

Now, whereas alſo ſome Statutes doe enable the Juſtices of peace to heare & determin, by the generall vſe of the word Examination, without ſhewing of what perſons: It ſeemeth to

to me that they may therupon examine, aswel the parties, as other witnesses.

Such an one is the Statute prouided for the true making of Tiles, 17. E. 4. ca. 4. Such another is the statute made for the examination of offences done by Coroners, 1. H. 8. c. 7. And such another also is the statute ordained for the examination of putting into forrests or waste any stoned horses being vnder the height of fifteene handfuls, 32. H. 8. c. 13. But (to put away al doubting) the statute against Logwood giueth expresly the examination both of parties and witnesses, 39. Eliz. cap. 11.

Tile.

Coroners.

Stoned horses.

Thus farre of Examinations: which whether they ought to be taken vpon oath, or no, where the oath is not namely giuen, you may coniecture by that which I haue already said thereof in the second booke: and yet (for more aid towards your resolution) I say now, that these Examinations ought alwaies (in my slender iudgemēt) to be taken vpon oath, the rather because the triall hereof dependeth vpon them, whereas those others are but to enforme the Iurie towards an Enditement only, insomuch as notwithstanding the examination so taken, yet the parties are bound to giue the matter of them in euidence againe, *Viua voce*, when the triall shall be made.

Of

Of Triall (or Hearing) by Certificat.

CAP. XII.

BEfore some other Iudges, the Law hath allowed triall by sundry sorts of Certificat: as from the Kings Lieutenant, in the case of Escuage: from the Bishop, in the cases of Bastardie, Bigamie, Excommunication, &c. & some other cases from other men: but before Iustices of the peace I haue not hitherto found any triall by Certificat, appointed by statute, but in this only case following.

If any man (being impeached vpon this statute of Armour, for not hauing his appointed furniture) shall alledge, that the same furniture so lacking, could not be conueniently prouided, for want of the same within the Realme: this shall be taken for a good answere (in case it be true,) but if it be denied or trauersed, issue shall bee ioyned vpon it, and the Triall shall be onely by the Certificate to be made by ỹ Lord Chancellor, L. Treasurer, L. President of the councell, L. Steward of the Kings house, Lord Priuie Seale, Lord Admi- Armour.

Admirall, and Lord Chamberlaine of the said houshold, or by three of them, in writing under their Seales, 4. & 5. Phil. & Mar. cap. 2. But this Statute is now repealed by 1. Iac. cap. 25.

Alehouse keepers.

As for the Certificat of the offence, and of the Recognisance taken by two Justices of the Peace (one being of the Quorum) of him that hath obstinately kept a common Alehouse against the statute 5. Ed. 6. cap. 25. that is made a sufficiēt conuictiō of the same offense, without further triall thereof to be had at the Sessions of the Peace: the which, and the rest of that sort, I doe therefore ouerpasse here.

Of Hearing (or Triall) by Trauerse.

Cap. XIII.

The most solemne and ancient triall of the fact against an Offendor that will not confesse it, is that which we see performed by the verdict of xij. good and lawfull men of the Countrie, and it also doth best content and quiet the guiltie man, for that it passeth by his owne Countrymen, Neighbours, and Peeres, according to the auncient libertie of the land, whereunto every Free borne man thinketh himselfe inheritable.

In

And thereupon it is named (in Mag. Chart. a.29.) *Legale iudicium parium ſuorum*, the lawfull iudgement of a mans owne Peeres, or Equals: becauſe, as the Nobilitie, ſo alſo the Communaltie, are to be tried, in treaſon, Felonie, or Miſpriſion of Treaſon, not the one by the other, but each by men of their owne eſtate and calling: I meane by the word Nobility, as our own Law ſpeaketh (which calleth none Noble vnder the degree of a Baron) and not as men of forraine countries doe vſe to ſpeak, with whom euery man of Gentle birth is accounted Noble: for we daily ſee, that both Gentlemen and Knights doe ſerue in the Parliament, as members of the Communaltie.

Howbeit, in caſes of forcible Entrie, Riot, Rout, Vnlawfull aſſembly, or ſuch like, they of the Nobilitie ſhall be tried by twelue men, euen as other inferiour ſubiects, 3.& 4.Phi.& Ma. reported by Dalyſon.

This triall happeneth before Iuſtices of the Peace, ſometimes vpon Trauerſe, and ſometimes vpon Arraignment.

But yet, ſome things be common to them both: For, if the partie charged, will Demurre in Law vpon the euidence, the Iuſtices ought to Record his Demurrer: So, if he will plead (in Iuſtificatiõ) any matter of Record that is before other Iuſtices, they ought to giue him day to bring it in. Marr. So alſo, if ỹ Iuſtices (thin-

(thinking an enditement to be void) haue diſcharged the priſoner, paying his fees: yet (vpon change of their opinion) they may stay him againe, at any time before Iudgement, Fitzh. Enditement 27.

But if he plead a pardon before them, in which certaine persons be excepted, and the Kings Atturney is not present to ioyne issue, that he which pleadeth it, is one of those that be excepted, then they themselues may supply the office of the Atturney, in that behalfe, 3. E. 4. 7.

The Kings aduantage.

Whereupon also I gather this generall learning, That they ought not to suffer the King to be diſaduantaged, where it lieth lawfully in their power to preuent it.

And if an Enditement be chalenged, for such cause as these Iuſtices will not allowe, then may they seale a Bill of that exception for the partie, if he will write & require it according to the ſtatut W. 2. ca. 30. as M. Marr. writeth.

The Trauerſe toke name of the French de Trauerſe, which is none other then *de transuerſo* in latine, ſignifying, on the other ſide: because as the Enditement on the one ſide chargeth the partie, ſo he on the other ſide cõmeth in to diſcharge himſelfe. For, wheras the Arraignment proceedeth vpon him that is not willingly brought in by proceſſe, the Trauerſe is (for the moſt part) freely tendered by the party himſelfe.

To Trauerſe an Enditement then, is to take iſſue vpon the chiefe matter thereof which is none other to ſay, then to make contradiction, or to denie the point of the Enditement. As, in a preſentment againſt A. for a highway ouerflowen with water for default of ſcowring a ditch, which he, & they (whoſe eſtate he hath in certaine land there) haue vſed to ſcowre or cleanſe: A. may Trauerſe either the matter (viz. that there is no high way there) or that the ditch is ſufficiently ſcowred: or otherwiſe, he may Trauerſe the cauſe, viz. ỹ he hath not that land, &c. or that he and they (whoſe eſtate, &c.) haue not vſed to ſcowre the ditch, 5. H. 7. 3. Trauerſe.

And this libertie of Trauerſe is commonly reſtrained to Enditment of Treſpaſſes, Contempts, Riots, &c. and other inferiour offences, within the Comiſſion or ſtatutes, authoriſing the Juſtices of peace, and is not vſually extended to Treaſons, or Felonies, as you ſhall hereafter ſee.

M. Brooke noteth, that it is not much vſed to Trauerſe Enditements before Juſtices of the peace, but rather to remoue them into the Kings Bench, and to Trauerſe them there: Howbeit, common experience at this day can ſhew many Trauerſes before Juſtices of the Peace alſo. Trauerſe before Juſtices of the Peace.

And there is no doubt, but that as Juſtices of the Peace haue power to award Proceſſe, and the parties alſo haue liberty to ſpeake for them-

themſelues: So (hauing ſpoken) the Iuſtices may Heare and Determine of their ſpeech, whether it touch them in freehold or otherwiſe.

For although it be holden (2.R.3.11.19.H. 8.11.& Fitz. tit Aſſ. 442. and in other bookes) that a man ſhall not be receiued to trauerſe a Preſentment, vnleſſe it doe charge him in his freehold: yet Huſſey and Fairfax ſaid (5.H.7. 4.) that a Preſentment (not concerning freehold) which is found before Iuſtices of the Peace, may be trauerſed: and whether they meant it of a Trauerſe in the Kings Bench, or before Iuſtices of the Peace, it maketh no difference, becauſe the reaſon is all one, that is, If Proceſſe be awarded, the party may come in, and offer his Trauerſe, & otherwiſe ỳ Proceſſe ſhould be in vaine.

Hereunto agreeth Moubray (41.E.3.26.) ſaying further, that in a Leet ſuch a Preſentment is not Trauerſable, becauſe out of a Leete no Proceſſe can bee awarded vpon it. And this peraduenture is the reaſon of that (booke 8.E.4.5. and of M. Marr.) where they ſay, that a Preſentment of bloudſhed found in the Sherifes Turne, and ſent as it ought to be) to the Iuſtices of the peace, cannot be traueruſed before them: as whereupon they can neither make Proceſſe, nor diſcharge the partie by way of Plea.

So that this ſeemeth a generall learning

hat whereſoeuer any Proceſſe *adreſpondẽdum*, goeth out before ſuch an Enditm̃ẽt as is trauerſable, there alſo the partie may offer, and ought to haue his Trauerſe againſt it.

But Mar. ſaith, that if a man be of an Enueſt that indicted him of Treſpas, or ſuch like, ſo that vpon the matter, he indicted himſelfe) his is ſo ſtrong, that he ſhal neuer be receiued o trauerſe it.

It is not my meaning to peſter this Booke with Preſidents: But yet, forasmuch as in the ecord of one trauerſe, ther is at once diſcouered, the Stile of the Seſſions, the Enditemẽt, he Proces to anſwer, the Trauerſe it ſelfe, he Verdict, and Iudgement thereupon, the Proceſſe of Execution, the yeelding of ẏ parties, & the aſſeſſement of their Fines: ſo that alone may ſerue in ſteed of all: I truſt it ſhal ot be troubleſome to inſert it

Somerſ. Stile of the Seſſions.

ALiàs ſcilicet ad Seſſionem pacis, tentam apud Bridgewater, *in Comitatu prædict' die Martis proximè ante feſtum Sancti Mathei Apoſtoli, nno regni domina noſtræ* Elizabethæ *Dei gratia, nglia, Franciæ, & Hiberniæ Reginæ, fidei defenris &c. viceſimo, Coram* Iohanne Stowell *Mite,* Humfrido Waldron, *vno Magiſtrorum Curiæ Cancellariæ dictæ domine Reginæ, & aliis ſocijs uis Iuſticiarijs dictæ Dominæ Reginæ ad pacem in Comitatu prædicto conſeruandum. Necnon ad diuerſas felonias, tranſgreſſiones, & alia malefacta in*

eodem comitatu perpetrata audienda & terminanda aſſignatis, per ſacramentum 12. Iuratorum extitit præſentatum, quod Iohannes Long de &c. R.M. de &c. & T.L. de &c. cum diuerſis aliis ignotis malefactoribus, & pacis dicte domine Regine perturbatoribus, modo guerrino arriati, uniti, & aſſemblati, xx. die Iulij in nocte eiuſdem diei, anno &c. Vi & armis (videlicet) baculis, gladijs, clipeis, pugionibus, falcaſtris, & alijs armis, tam inuaſiuis, quam defenſiuis, apud C. &c. clauſum cuiuſdam W. Willet, (vocatum B.) illicité, riotoſé, & routousé fregerunt, & intrauerunt, & octo palustres fœni ad valentiam &c. ad tunc & ibidem exiſtentia, de bonis & catallis dicti Vill' Willet, adtunc & ibidem iniuſté & illicité ceperunt & aſportauerunt, contra pacem dict' dom. Regine &c. & contra formam ſtatuti inde æditi & prouiſi, Per quod preceptum fuit Vicecomiti, quod non omitteret &c. quin venire faceret eos ad reſpondendum &c. Poſteaquam ſcilicet predicto die Martis proximé ante feſtum Sancti Mathei Apoſtoli anno viceſimo ſupradicto, coram prefatis Iuſticiarijs venerunt predicti I.L. R.M. & T.L. in propriis perſonis ſuis, & habito auditu Indictamenti predicti, ſeperatim dicunt, quod ipſi non ſunt inde culpabiles, Et de hoc ponunt ſe ſuper patriam: Et Adam Martin, qui pro domina Reg. in hac parte ſequitur ſimiliter &c. Idem veniat inde Iurata coram Iuſticiarijs dicte domine Regine ad pacem in comitatu predicto conſeruandi aſſignatis &c. ad Seſſionem pacis apud Welles, &c, die Martis proximè poſt Epiphaniam domini tunc

Proteſte to anſwer.

Trauerſe.

Iurie.

cunc proximè futuro tenendam. Et qui &c. Ad recog. &c. Quia tam &c. Idem dies datus est tam præfat' Adam Martin, qui sequitur &c. quàm pefatis I.L.R.M. & T.L. &c. Ad quas quidem Sessiones pacis tentas apud W. predict' in comitatu prædicto die &c. Coram domino T.P. G.N. & H.P. Milit' & socijs suis Iusticiarijs dictæ domine Reginæ ad pacem in comitatu predict' conseruandam, Necnon ad diuersa felonias, transgressiones, & alia malefacta in eodem comitatu perpetrata audienda & terminanda assignatis, venerunt tam prefatus A.M. qui sequitur &c. quã præfati I.L.R.M. & T.L. in propris personis suis, Et Iuratores predicti per Vicecomitẽ comitatus predicti ad hoc impanellati, & exacti (videlicet) I.F. gen. I.G. &c. similiter ueneruntqui ad veritatẽ de præmissis dicendam triati & iurati, dicunt super Sacramentũ suum quod predicti I.L.R.M. & T.L. culpabiles sunt, & eorum quilibet culpabilis est de transgressione, contemptu, & riotto prædictis in Indictamento prædicto superius specificatis, modo & forma prout superius versus eos supponitur: Ideo concessũ est per Curiã quod predicti I.L.R.M. & T.L. capiantur ad satisfaciendũ dict' dom. Reg. de finibus suis, occasione transgressionis, contemptus, & riotti predict'. Qui quidem I.L.R.M & T.L. adhunc & ibidem præsentes in Curia petierunt se ad finem cum dicta dom. Regina occasione prædicta admitti. Et inde ponunt se seperatim in misericordiam D.R. Et assessatur finis eiusdẽ I.L. per Iusticiarios predictos ad 3. libr' 6. sol. 8. denar'. Et finis eiusdem

Day giuen.

Verdict.

Iudgement.

Capias pro fine.

Ponunt se in misericordiam Reginæ.

Fine assessed.

R.M. *Assessatur ad xx. solid'. Et assessatur simi-*
eiusdem T.L. *ad quinque libras, bona et legalis mo-*
neta Anglia, ad opus & vsum dicte dom' Regine.

Endictment void.

And this is to bee noted, that this Record was afterward remoued into the K. Bench, & that the party was dismissed there, for want of those words in the Enditement, that you see vnderlined in other letters, in two speciall places of the same.

Of Triall vpon Arraignment, and therewithall of the Triall of Felonies, and what Pleas, or other helpes may be vsed therein.

Cap. XIIII.

Difference betweene Trauerse & Arraignment.

ARraignment and Trauerse do not so much differ in the nature (or substance) of the Triall it selfe, as in the order or vsage of the same. For as there is no Enditement trauersable by the partie, but that he may also be arraigned vpon it: so likewise is there no Endictment, whereupon the partie may be arraigned, but that he may also (if he wil) tender his trauerse vnto it.

The difference then standeth in this, that commonly he (which is to be arraigned) commeth in by compulsion of bond, or processe, and is touched with matter concerning life & death,

to

or some such hainous offence, and pleadeth generall Not guiltie to the Endictment.

Commonly I say, because although he come in freely, and bee indicted of some inferiour offence, yet he may be neuertheless arraigned: neither is he of necessitie driuen to plead Not guiltie (which runneth to the fact) but may (if the case will suffer) plead a Justification, or matter in Law, though it bee in case of Felonie.

It seemeth to haue borrowed the name out of the word Array, either of the Panel, or Jury: because he that is arraigned, must be tried by them being first called, arrayed, sworne, & tried, in order for that seruice: or else, of the array of the prisoners, that be perused & arraied in order before they come to triall.

If I should here rip vp, and prosecute at full (as the place offereth me occasion) the whole learning that belongeth to the Arraignment, and Triall of Felons, aswell for the taking of Challenges, & pleading of Justification, matter in law, pardon, an other time acquite, and an other time attaint: as also for the hauing of Sanctuarie, and sauing by Clergie: I should but *actum agere*, and yet not do it halfe so well as you may find it in M. Stanford: besides the which, I should endeauour to teach them, of whom I my self may better learn, seeing that the vse of these matter is either reserued till the cõming of the graue Justices of gaole de-

liuery, or els is performed by other men of law that can informe themselues sufficiently therein. And considering that these things do many times fall in vse, and that it were vnseemely for Iust. of the P. to be altogether ignorant therein, I will shortly run ouer them, if first I may offer to consideration a point or twaine, whereof it peculiarly behoueth our Iust. to be aduertised.

Felonies not triable before Iust. of P.

The first thing is, that there be sundrie felonies, and some Enditements of felonies also the which (as it seemeth to me) Iustices of the Peace cannot heare, or trie at all: the second, that in the handling of those verie Felonies wherewith they may deale, there be yet certaine cõsiderations peculiar to the Iust. of the peace onely, and not common to them without other Iudges.

Of that first is the felony for Forgery by the statute made in the first yeare of the raigne of the late Q. Elizabeth c. 14. after conuiction for a former offence.

Neither doth the hearing and triall of that felonie of a seruant (taking the goods of his Master after his death) belong (as I haue said) to the Iustice of Peace in the Countrie: because they cannot take notice of his default in the Kings Bench, by which default it first beginneth to bee Felony. 33. H. 6. cap. 1.

The

The like, though for vnlike reason, is to be said, of the felonies in embeziling of any ỹ records of ỹ Courts at Westminst. against the statute 8 H. 6. cap. 12. And of an Accessarie in one Countie, where the felonie was done in another County, vpon the statute 2. & 3. E. 6. cap. 24. because the iurisdiction ouer thes felonies is not committed to the Iust. of peace but remitted to other Iudges by the very same statutes.

And so of the felony of conspiring the death of the King, or of any Lord of the Realm, or of any of the King, Counsel, or of the Steward, Treasorer, or Controller of the Kings house, because, it is to be tried by them of the Check-roll of the same houshold, 3. H. 7. cap. 14.

Furthermore, they cánot make trial of such as were indicted of felonie before the Coroners, or before the Iust. of Gaole deliuerie, or of Oyer and Terminer, if the same persons were not Iust. of Peace also in the same shire, so as the indictments may be vnderstood to be takē by them, as before Iustices of the peace: for their Commission & authoritie extendeth only to such as stand endicted before themselues, or former Iustices of the Peace, or the Sherife in his Turne.

Things peculiar to Iustices of the P. in the triall of Felonies.

Thus farre of the first point: Touching the second it seemeth by Mar. and Fitz. fol. 16. that albeit two Iustices of the peace, (the one of them being of the Quorum) may heare and

trie Felonies: yet no Iuſtices of the Peace haue authoritie to deliuer felons by proclamation, or without ſufficient acquitall: yet to deliuer ſuch as be in priſon for ſuſpition of Felonie.

For they muſt proceed by inquiring, hearing and determining, as their Cõmiſſion appointeth them, and not rid the gaole otherwiſe, as the Iuſtices of Gaole deliuerie may doe. And therfore ſuch perſons, (if they cannot be indicted) muſt either remaine the comming of the Iuſtices of Gaole deliuerie, as the common maner now is, or elſe (being remoued into the Kings Bench) they are either to be deliuered thence vpon the writ *de geſtu & fama*, as the old order was, or by ſuch other meane, as they at this day doe vſe therein.

Theſe Iuſtices of peace can take no Appeal of any appꝛouer, nor other, before them, ſaith the Iuſtices of the Common place, 2.H.4.19. and ſo it is clearely holden 9.H.4.1. becauſe their Commiſſion ſtretheth not ſo farre, but onely to ſuch felonies as fall out by Enquirie before themſelues, or their former fellow Iuſtices, howſoeuer the booke 44.E.3.44. vpon the Statute 5.E.3.cap.11. or the Statute (8. H.6.ca:10.) may ſeeme (to a running Reader) to allow that power vnto them. And therefore M. Stanford fol.95. worthily doubteth of this matter.

But howſoeuer that be, yet ſeemeth it to me

no

no leſſe reaſonable thē ſeruiceable, that if one felon wil accuſe another beſore Juſt. of the P. they may take his confeſſion and repꝛie him, and thereupon cauſe the other to bee inquired of, and ſo pꝛoceed againſt him.

Furthermoꝛe, they cannot arraigne a man vpon his abiuration, ſaith Marr.

It hath alſo been thought vnmeet, that they ſhould trie a felon the ſame day in which they awarded the Venire facias, againſt the Jurie 2.E.4.44. Fitzh. tit Coron. 44. but that hath no neceſſitie, and the Law is now otherwiſe taken.

Mar. ſaith, that they cannot award the writ *Venire facias tot matronas*, to try whether a woman (arraigned beſoꝛe him) be with childe oꝛ no: but ſeeing it ſtandeth with law & reaſon to ſtay her foꝛ the time (that the child may bee pꝛeſerued) I cannot but doubt of his opinion.

They may giue Clergie to a felon, if the Oꝛdinarie (oꝛ his deputie) bee pꝛeſent to take him: but if they be abſent, he muſt be repꝛied, becauſe (as Marrow ſaith) theſe Juſtices can ſet no fine vpon the Oꝛdinary foꝛ his abſence: no moꝛe then if he wil accept one to reade as a Clearke, where in truth he cannot reade at al. But if you looke vpon M. Stanford lib.2.c.25 hee will perſwade you, that the Oꝛdinarie is not the Judge, but a Miniſter in the triall of Clergie: and that Clergy may lawfully be giuen, and allowed in his abſence.

Of

Of the Fine for his default at these Sessions I am a little doubtfull, as I haue said before: but touching the allowance of clergy to the offendor, I see no cause at all why it may not belong to the Iust. of P. as wel as to other Iudges: seeing that they be Iudges of the felony as other Iust. are: & otherwise all men might be defeated of that priuiledge.

Marrow saith also, that if Bigamie (that is godly and popish counterplea) had been alleged against one that praied his Clergy, the Iust. of P. could not haue written to the Ordinary to certifie the same. But let that passe, as not worth the debating.

And if a man (outlawed of felony by proclamation before the Iustices of peace) be brought before them, and do alledge, that he was (at the time of the outlawry pronounced) out of the Realme in ỹ Kings seruice vnder such a Captaine: and that he was then imprisoned in an other countie: they can neither write to the Captaine nor into the Countie, by the opinion of Marrow.

But I wil acquaint your consideratiõ with the Statutes 22. Hen. 8. cap. 14. & 32. Hen. 8. cap. 3. where you may reade to this effect, All maner of forreine plees (triable by the countrey) hereafter to be pleaded by any person or persons, arraigned vpon any Enditement for any petite treason, murder, or felony, shal forthwith be tried before the same Iustices before whom such

ch persons shal be arraigned, and by the same rors of the same Countie that shall trie the d petite treasō, murder, or felony, without any rther respite or delay, in whatsoeuer place of e Realme the matter of the same plees be sup- sed or alledged.

Thus much onely of things restraining the ustices of peace in the Triall of Felonies, herein also they are not now adaies much cupied, the rather because they commonly fer it till the comming of the Justices of ise, by reason ỹ the statuts 1. & 2. P. & M. c. . & 2. & 3. P. & M. c. 10. do inioine them to rtifie at the next generall Gaole deliuerie, th the examination and bonds that they shal ke concerning felons and suspects that are ought before them. Neuertheless their wer is no whit restrained, to proceed before e comming of those Justices.

This I may adde (not as a restraint, but an enlargement of the authority of Justi- of the P.) that if they see cause, and doe ite to the Clerke of the Crowne of the ings Bench, for the names of any persons ing otherwhere attainted of Felonie by tlawrie, or being Clearkes conuicted or at- inted: he ought (without delay, and vnder e paine of xl. s.) to certifie the same vnto em, together with the causes of such attain- r, or conuiction, 34. Hen. 8. cap. 14.

hese things thus premised, Let vs now sup-

pose

pose al impediment to be remoued, and let the
the felon at the bar, ready to take whatsoeuer
lawfull aduantage of Challenge, Plea, or o
ther benefit, that may be allowed vnto him.

Challenge: It was euer permitted, that the Prisoner
might challenge so many of the Iurie as he
would (shewing lawful cause for it) as namely
to say, that he (whom he challengeth) was one
of the Iurie which did indite him: for, such
one it may bee thought, that hee will not sa
tisfie his former oath, 25. Edw. 3. cap. 3. or to say,
that he hath not lands of the clere yerely val
of fortie shillings: for, such a one is disable
2. H. 5. cap. 3. except it be in Cities, or such
ther franchises, where the value is measur
by forty pounds of goods moueable, 23. H.
ca. 13. or to say, that he is not *probus* or *lega*
because he hath beene attainted of Felonie, Fo
gerie, Periurie, or of such like as are shewed be
fore.

The common Law hath also (in fauour
life) allowed vnto the prisoner his peremp
ry challenge, without shewing any cause at
for it. But yet, forasmuch as it was long ti
doubtfull how many he might challenge,
same was put into certaintie (by the Statu
22. H. 8. ca. 14.) and restrained to the numb
of 20. persons at the most.

Now if the trial be of an Alien borne (for
lonie, or murder committed by him) the Iur
shall be *de medietate linguæ*, that is, halfe of
Nation

ation, and halfe of ſtrangers, except it be in
e caſe of a Scot, whoſe Iurie ſhal be altoge-
er Engliſh, as well becauſe hée ſpeaketh our
nguage, as alſo for that he is reputed a ſub-
t and not an Alien, Collection Dier 304. &
57.

Thus ſhortly of Challenge, which is but di-
tories, and to win time: and therefore let vs
ow heare what hée may plead in chiefe as it
ere, and for the ſafetie of his life.

If the priſoner haue béen at any time before lawfully acquited of the ſelfe ſame felonie, or haue bene orderly attainted of any other felonie, he may ſafely reſt vpon it. For as it is vnreaſonable, to draw a mans life into double danger for one ſingle offence: So is it alſo vnprofitable, to condemne him that is already attainted, Corone Fitz. 132. & 28.E. 3.90. And for the proofe of either of theſe his allegations, the Iuſtices ought to allow vnto him conuenient time for the bringing in of the Record of the Court where he was ſo acquited, or attainted, Corone Fitz. 232. Another time acquite.

But becauſe each of theſe two points hath his ſeuerall conſideration in that which doth remaine, I alſo will henceforth handle them apart.

If the priſoner be now arraigned of a felony, by the name of A.B. (by which name, as alſo by ỹ name of A.C. he is wel inough known) hẽ may he ſay, that he was before time acquited

 Another time acquit-
ted of the selfe same felonie, before such or such
Iustices, by the name of A. C. auerring that
he is the same person, and that hee is known
by the one and the other calling, Li. Ass. 26. pl.
15. & 11. H. 4. 93. So if hee bee arraigned of
the murder of a man (supposed by the Endite-
ment to be slaine in the 30. yere of Queen Eli-
zabeths raigne) before time hee may plead
that he was acquitted of ỹ murder of the same
man, auerring that he was slaine in some o-
ther yeare Lib. Ass. 22. pl. 55. For as in the
former case, the same man may beare two
names: so in the latter one person cannot be
twice killed.

But if the Felon were first acquited vpon
an Endictment, which did not cõprehend suf-
ficiẽt matter of felony in it: that will not help
him now, because his life was neuer put in ieo-
pardie thereby, in so much as if he had been
found guiltie therevpon, yet the court would
haue deliuered him, Stamford 106. Howbeit if
the Endictment had good matter in it selfe,
then may no error (committed in the Proces)
take the benefit of this plea from him, seeing
that he was arraigned vpon the Endictment
and not vpon the Procesle, 9. H. 4. & Coron.
Fitzh. 444.

Againe, if he that stole goods were acquited
in a Countie where he ought not to haue been
tried for them, that is no lawfull acquittall to
saue him from trial now: no more, then if
man

an were acquited of murder in an Appeale
the ſuit of a yonger brother during the life
the elder: that is of no ſuch force, but that he
ll be arraigned at the ſuit of the K. againe,
anf. 105. & 106. & 1. H. 6. 31.

Laſtly, he that is acquited as principall to a
elony, may neuertheleſſe be arraigned as an
ceſſary (after the offence done) to the ſame
onie: becauſe it is not the ſame, but another
ſequent, and diuers offence. And yet ſhall
neuer be arraigned as an acceſſarie (before
offence) to the ſame felony: becauſe, (as I
ue ſaid heretofore) the Acceſſaries before
ence: be the verie cauſes of the fact & do (as
were) inſeparably concur with the principal
d be preſent with him in the doing of the
ne, Lib. Aſſ. 27. pl. 10. & Stanf. 105.

Now on the other ſide, ſince nothing can be
d of him that is already attainted, and hath
erby loſt whatſoeuer he might forfeit, it
th alwaies bin thought méete to allow him
plead it: and it is to no purpoſe to arraigne
n of new, for that or for any other felonie,
cept it be in a ſpecial caſe or two, for ỹ bene-
of other perſons, which M. Sanford hath
ieſly noted for vs. Another time attainted.

The firſt is for the aduantage of the king:
or if he that is attainted of felony, hath al-
committed treaſon, then may he be arraig-
d of the treaſon, notwithſtanding ỹ former
tainder, to ỹ end that his Maieſty may haue
his

his prerogatiue in the escheat of all his lands, of whatsoeuer other Lords they shalbe holden 1.H.6.5. And yet if that treasõ were committed after the attainder for the felonie, then (in the opinion of M. Stanf.) the title of Escheat (which by that attainder did accrew to the other Lords) cannot be deuested & taken from them, by the subsequent Treason.

The second is, for the commoditie of subiects, as in case where diuers men be robbed of their goods by a felon, there (though he be attainted at the suit of one) yet ought he also be attainted at the suit of the rest: that each of them may thereby haue restitution of his goods whereof otherwise for want of suit he should be denied, Stanf. 165.

But now, if he that was thus attainted afterward obtaine pardõ of that felony whereof he was attainted, then is he restored to the law, & is made answerable to al other felonies that were committed by him before the time of that felonie, whereupon his attainder was grounded, 6. H.4.68.

And if a man do commit two sundry Felonies, and (being arraigned vpon the one) standeth mute at the barre, and hath therefore iudgement to be pressed: yet may he be arraigned vpon the other felonie, notwithstanding former iudgemẽt: because it is none attainder at all for his offence wherewith hee was charged, but onely a punishment inflicted

he law vpon his contumacie and ſtubborne ſi-
ence, Collect. Dier. 308.

With this there was wont to bee matched
he Plea, That the priſoner was another time
onuict offelonie, & deliuered to the Ordina-
ie to make his purgation: which alſo was of e-
ual force (with the former plea) to ſaue him
om new arraignment. But the Law of our
ime hath worthily taken that Plea from the
ffendor, and the offendor himſelfe from the
ower of the Church.

For, as the allowance of the booke proce-
ed from the pride of Churchmen: Euen ſo
here thoſe cõuicts ridiculouſly purged by thẽ.
For which cauſe the ſtatute 18. Eliz. c. 6.) hath
dained, not onely that after allowance of
lergie and burning in the hand) the priſo-
er ſhall be enlarged: but alſo that hee ſhall
e put to anſwere to all the other Felonies,
herof he is not before acquited, conuicted
tainted, or pardoned, and therefore, leauing
, let vs ſee how the offendor may bee holpen
y pleading, and praying allowance of the
ings pardon.

Another time conuict.

The pardon whereof the partie may haue
uantage, is either Generall or Speciall: by
enerall I doe here meane that which is gi-
en by Parliament to all men generally, or
ith the exeptiõ of ſome perſons. And of this
rdon the Court ought of duty to giue allow-
nce, though the partie neither plead it, nor

Generall par-
don.

wil accept the benefit of it. But if it make spe-
cial exception of some persons, then must the
prisoner alledge, that he is none of those that
be excepted vnlesse the act it selfe do say, that
he shall be holpen by it without any such plea-
ding, 11.H.4.39.& Stanf.103.

Touching this sort of pardon, I will onely
lay downe these few cases: The servant that
had killed his master, was Endicted of volun-
tarie murder, without the word *proditorie*, and
was therupon arraigned and found guilty.
But because the offence was petite treason in
deed, and petite treason was thē pardoned by
the Parliament (5.El.) though Murder were
therein excepted, Iustice Welsh thought
méet to repríe the prisoner without giuing
iudgement vpon him, Col. Dier 235.

A man stroke another in Feb.(13.El.) who
of hee died in Iune next following, in which
meane while all Felonies, affences, iniuries
& misdemeanours, were pardoned by Parli-
ment, and he was discharged by that pardon
because the stroke was the offence against the
Queene, and that was past and pardoned
though the death did afterward ensue vpon it.
Comment 401.

One that had committed Manslaughter
was endicted of Murder, and thereupon Ex-
lawed: afterward, the Parliament pardoned
all offences, &c. except persons Vtlawed, or at-
tainted of Murder: the party reuerseth the
lawe

wzie, and then is arraigned of Manſlaugh-
r: & it was much doubted whether he ſhould
discharged by the pardon, becauſe the per-
ns vtlawed were excepted, whereas if the
fences only had bin excepted, it would hâue
ade no great queſtion, 29. Elizab. Report
ompton.

The ſpeciall pardon ought to be pleaded vn- Speciall
r the great Seale of England: for, that au- pardon.
oritie which ſome ſubiects in auncient time
d to grant pardon, is reſumed by the ſtatut
.H.8.c,24.

And with this pardon, the partie ought to
ing a writ of allowance, teſtifying that he
th found ſuerties for his good port, accor-
ng to the ſtatut 10.Ed.3.c.2. Howbeit that
tter is many times diſpenſed withall, by
ans of a *Non obſtante*, that may be put into
pardon, Com.502. But let vs yet ſée, what
pardon hath within it.

If the pardon doe agree with the Endite-
nt, as well in the name, ſurname, and ad-
ion of the partie, as alſo in the point of the
ence that is to be pardoned: then is there
thing to be ſaid againſt it. But if the par-
n be of all Felonies, that will not diſcharge
n of Petite Treaſon, nor Murder, at this
y (except it containe them in ſpecial words)
hough before the ſtatute 13. R.2. Stat.2.ca.
uch a Pardon was auaileable enough for
m

Neither is such a pardon sufficient to save the life of him that is attainted of Felony, unlesse it haue words to pardon the attainder, execution, 9.E.4.29. no more then a pardon of that attainder and execution, will deliuer him without words to pardon the Felonie it selfe. 8.H.4.21. So where the partie is abiured for the death of a man, the pardon must of necessitie carrie words of abiuration, Coron. Fitzh. 124.

And if the King doe pardon to a Gaoler the escapes of prisoners being in his ward for Felonie or treason, that shall extend to negligent escapes only, and to none other, Grants Fitzh. 37. So if hée pardon two men all Felonies done by them, or any of them, that wil not sever them apart, because the first words be ioynt and not seuerall, whereas all felonies be of themselues seueral, 22.E.4.7. For in al these and the like cases howsoeuer the fauor of life may desire liberall interpretation: yet (for as much as the offence is against law) the grant and dispensation of the Prince may not be strained beyond the words.

Sanctuary and Clergie.

The last helps for the prisoner, be Sanctuarie and Clergie, whereas his case will affoord him the one or the other of them. For if he were taken out of Sanctuary, hée ought to pray (at the first) to be restored: and if he can read, he may (at any time) desire of the Iudge the allowance of his booke.

Pe

How each of these began at the first, & grew
in time to be ful summed, or how they shronke
againe, and how their gaiest fethers were at
the last (by one and one) pulled from them: I
may not héere stand to discourse, though it be
péece, worthy both the handling & hearing.
But forasmuch as our statuts do many times
match these twaine together, I will likewise
shawe them forth, as I shall fall vpon them,
shewing you where the one or the other, or
both be denied to the prisoner.

Where Clergie lieth, it is grantable but once to one persõ, except he be within holy ors: for such an one may haue it often, 4.H.7 13.1.E.6.c.12.& Stanf.135. — Once or moe times.

Bigamus, (that is to say, he which hath beene twise married, or which hath married a wiw) may haue his Clergy at this day, though old time it were a good counterplea against Collect. Diet 201. — Bigamie.

It was wont to be doubted, whether a Bard might haue the benefit of Clergie: because he could not be a priest without speciall dispensation, Brooke Bastardie 46. — Bastard.

And it was agreed by all the Justices (2.& Phil.& Mar.) that a woman shall haue none allowance of Clergie: but she may haue (for once onely) the benefit of her belly, if it be found by women thereto appointed that she is with child, Report Dalison. — Woman.

The receiuers or aiders of Seminary priests or — Iesuites, &c.

or Iesuits are to be denied the fauour of Clergie, 27. El. c. 2.

Witches, &c. Coniurers or Witches, their aiders or counsellors, shall neither haue Sanctuarie nor Clergie, 1. Ia. c. 12.

Rape, Burglarie. He shall haue no Clergie that committeth any Felonious Rape, Rauishmẽt, or Burglarie, 18. El. c. 6.

Rauish infant Nor he which carnally and vnlawfully abuseth any woman, being within the age of ten yeeres, 18. El. c. 6.

Take away a woman. Nor he which is principall, or accessarie before, to the Felony of taking away of a maid, widow, or wife, that hath lands or substance, &c. 3. H. 7. c. 2. & 39. El. c. 9.

Buggerie. Nor he which committeth the detestable sin of Buggerie, 25. H. 8. ca. 6. and 5. El. ca. 17.

Murder. There lieth no Clergie nor Sanctuary for him which committeth wilful murder or poysoning, of malice prepensed: or which robbeth another, in or nigh ỹ highway: or which stealeth any horse or horses, gelding, or geldings, mare or mares, or stealeth goods out of any

Poisoning.

Robbe in highway.

Horse.

Church. Church or Chappell, or which breaketh any

House. house feloniously by day or night, any person being in it: or which robbeth any persõ in any part of his dwelling house, himselfe, his wife, children, or seruants, thẽ being there, or within the precinct thereof, and being sleeping or waking, 23. H. 8. c. 1. 32. H. 8. c. 3. 1. Ed. 6. c. 12. 5. E. 6. c. 9. & 2. & 3. E. 6. c. 33. Or which robbeth

beth by day to the value of v.s. or vpwards, in any dwelling house, or outhouse, thereto vsed, though no person were then within it, 39. El. cap. 15.

He is excluded from the benefit of Clergie, ỹ stabbeth or thrusteth any person (hauing no weapon drawn, or that hath not thē first stricken him) if the person so stabbed or thrust die therof wīn ỹ space of 6. months after, 1. Ia. c. 8.

He that stabbeth.

He which robbeth any person in any booth or tent, in any faire or market, the owner, his wife, children, or any seruant then being therin, either sleeping or awake, is depriued of his Clergy, 1. E. 6. c. 12. & 5. E. 6. c. 9.

Robbe booth, or tent.

Such as maliciously command, or hire any to commit petite treason, or wilful murder, or robberie in any dwelling house, or in, or neere any highway, or without the Marches of England against Scotland: or willingly to burne any dwelling house, or any part therof, or any barne hauing corne therin, shall not be admitted the Clergie, 4 & 5 P. & M. ca. 4.

Command murder or robberie.

Burne house or barne.

Clergie and Sanctuarie be taken from the souldier that departeth without licence of the Lieutenant or Captaine, 2. E. 6. c. 2. & 4. & 5. Ph. & M. ca. 3. The Clergy is taken from the souldier or Mariner that wandreth begging, or shall exceed the time of his licence in his testimoniall, or forge any such testimoniall, or carie ỹ same forged if he know it, 39. El. c. 17.

Souldier that departeth.

He that doth a Robberie or Burghlarie in

Carrie the goods into an other County

one countie, and is taken with the goods so robbed or stollen in another County, shall lose his Clergy there, as he should doe where the robberie or burghlarie was committed 25. H. 8. ca. 3. & 5. E. 6. ca. 10.

Forgerie.

Sanctuarie and Clergie be taken from him that secondly shall be conuicted of the forging of false deeds, &c. 5. Eliz. ca. 14.

Cutpurse.

He which priuatly taketh money or goods (ouer the value of twelue pence) from the person of another, not knowing it, is denied Clergie, 18. Eliz. ca. 4.

Egyptian.

Clergie and Sanctuarie be taken from him which calleth himselfe Egiptian, or which keepeth them companie against the statutes 1. & 2. Phil. & Mar. c. 4. & 5. Eliz. cap. 20.

Dangerous Rogue.

Clergy is taken from the dangerous Rogue that after he hath beene branded with a Romi R. and placed in labor, shall be taken begging againe, 1. Ia. ca. 7.

A consideration touching Clergy.

In all other cases (so farre as I yet find) the prisoner may enioy the priuiledge of Clergy: yea and in euery of these statutes also that do resume Clergie, if so be that the Enditement do not expresly mention the offence in the verie words of the statute it selfe, the offendour may escape by his Clergie. For if the Enditement be, *Murdrauit* onely, without saying, *Ex malitia præcogitata*: or if it be that he procured a Robberie in a dwelling house, without adding maliciously: or that he robbed one in

he high way, and toke ten shillings from his erson, without shewing that he made Assault pon him, or vsed violence vnto him: or if it be f Burghlarie and do lacke the word Burghla- ter: then (as M. Stanford warily noteth) the ffence is not against the statute, and conse- uently the benefit of Clergy is not pulled frō he offendor, Stanford 130. Collect. Dier 183. 124.

A scruple concerning clergy

The same M. Stanford (about the same place his booke moueth a doubt in this matter Clergie, verie meet to be remembred here, to be resolued in an other place. When sun- ie of these statutes which take away clergy n case where the offendor is conuicted by the erdict of twelue men) doe speake nothing at l of his attainder by Utlawrie, or by Parli- ment, nor of his standing wilfully mute: nor his challenging aboue twenty peremptori- e: nor of his refusall to answer directly to ỹ ffence: It is to be considered (saith hee) whe- er in these cases also, the Clergie shal be de- ied vnto him. But since it becometh not me determine, where he doubted, I will heere ake an end of our triall, and procéde vnto udgement.

Of Iudgement.

CAP. XV.

THe Iuſtices of peace hauing thus ſitted and tried the cauſes in hea ring either by the euidence giuen to the Iurie, or by the examinatio of witneſſes, or by certificate allowed, or o ther lawfull, reaſonable, and diſcreet proofe, are now come to make an end, & to determine of it. For I may well apply that to hearing & determining, which H. Bract. requireth to the making vp of a true Iudgement, that is, An equall and indifferent acceptation of the per ſons: an earneſt examination, and thorow ſearch of the cauſe: a true deliuery of the ſentence: and a diligent execution of the ſame: Of theſe, the two firſt belong to hearing (or trial) which we haue already handled: and the latter two be the verie parts of determining, wherwith we haue now to deale. For Iudgement and Exe cution doe make an end of the cauſe in contro uerſie.

You haue read before, a generall learning in the Commiſſion: I meane, that if any difficul tie doe ariſe in determination vpon triall, the Iuſtices of peace are reſtrained to proceed vn to iudgement: and you may reade. 6, H. 7. 16. that

hat if a Certiorari be brought to the Iustices f the peace, they are stayed (by the opinion of eble) from determination, although the Re- ord be not thereby remoued from thence.

But admitting that there is none impedi- ent, let vs heare their Iudgement.

The iudgements then of the Iustices of eace be in some cases *arbitrarie* (or referred o discretion) and in other some cases prescri- ed or limitted. Of the first sort, take this one, r two for all. Iudgements by discretion.

He that is orderly conuicted before them in heir generall Sessions, of the deceiptful get- ing of any goods into his hands (by meanes f any false token, or counterfeit letter made n the name of any other) may be adiudged by hem to suffer imprisonment, standing on the illorie, or any other corporall paine, that hey shall appoint, except the paines of death, 3.H.8.cap.1. False tokens.

And that Seruant, Workman, or Labourer, hat shall so willingly and maliciously make assault or affray vpon his Master or Mistresse, or other that then shall haue charge ouer him, as that he shall deserue further punishment then the imprisonment of one whole yeare, may be put to such further open punishment, (so as it extend not to life, nor limme) as the Iustices of Peace in open Sessions shal think conuenient, 5.Eliz.cap.4. Seruant.

Their prescribed Iudgementes bee of sundry

sundrie formes, according to the natures of the offences (whereof they haue to iudge) which be diuers also.

Prescribed Iudgements.

For, vpon petite Treason committed by a man, the sentence ought to be, that he shall be drawne and hanged: But against a woman, the iudgement is al one, whether it be in high or petite treason, that is to say, that she shal be drawne and burned, Stanf. 182.

Against Murder and other Felonies, they must pronounce the only vsuall iudgement, of hanging till death, in both the seres.

Vpon such as be conuicted of trespasses, contempts, riots, and such other offences, whereupon no certaine forfeiture is laid by statute, they must adiudge, that they be taken and ransomed, and so to satisfie the King for their offences by making their fines: and vpon offendors against such penall lawes as doe inflict any certaine paine, they ought to adiudge as the Statutes themselues doe direct their course.

Forestalling.

For, vpon conuiction of the first offence, against the statute of forestalling (4. E. 6. c. 14.) they must award imprisonment for two monethes without Baile or Mainprise, and the forfeiture of the value of the goods so had: vpon the second attainder (or conuiction) such imprisonment for fiue months, and the double value of the goods: and vpon conuiction of the third offence, they must giue sentence that the offen-

offendor be set on the pillorie, and to forfeit al his goods, and further to haue imprisoument of his body during the kings pleasure.

The iudgement of xx. l. forfeited, & to stand openly on the pillorie all the Market time (of one or moe daies) is also to be giuen vpon him that vseth Logwood contrarie to the Statute 39.El.cap.11. Logwood.

Against him that shall bring or procure to be brought into any ship, any kinde of sheepe, being aliue, to be conueyed out of any of the Kings dominions, they ought (for the first offence) to adiudge that he shal lose al his goods to the King, and suffer imprisonment by the space of one whole yeere without baile or mainprise, and that at the yeeres end, he shall (in the full market of some market towne) haue his left hand striken off, and nailed vpõ the openest place of such a market, 8.El.c.3. Conuey sheep

Against him that is conuicted for the vnlawful taking or slaying of any Deere, or for such taking of any Hawke, or egs of Hawke (contrary to ỹ statut, 5.El.c.21. & 3.Ia.c.13.) they must adiudge treble damages to ỹ party grieued, three moneths imprisonment of the body of the offendor, and (after that expired) to find sureties of his good behauiour for 7. yeeres after, or else to remaine in prison vntill he shall finde such sureties during those seuen yeres. Taking of Deere or Hawkes, &c.

And vpon Certificat made at the next quarter Sessions of the peace, by two Iustices of Fleyonke.

the

the peace (the one of them being of the Quorum) against him that shall obstinately keepe an Alehouse, contrarie to the statute (5. Ed. 6. ca. 25.) the Justices are to assesse the fine of twentie shillings: the which I doe purposely rehearse, because they are there warranted to assesse the fine, without processe first made against the offendor, vnlike to the common order of assessing Fines, as you shall see when I come to that matter.

It were more laborsome, then profitable, to runne ouer all the diuers Iudgements that statutes do appaint, and it may suffice in this place to haue giuen this taste of these, & therefore I will in hand with Execution.

Of the Processe for the Fine of the King, and of the assessing thereof: and of the Estreating for the King.

Cap. XVI.

Seing that Execution is but a performance of the Iudgement, I shall not need to make long enumeration of the sorts of executions, which are within the power of the Iustices of Peace: For besides that by the knowledge of the one, the other is knowen also, the

Iustices

uſtices of the Peace themſelues haue in ma-
y caſes performed their dutie in both, when
hey haue in the one pronounced that which
s due to the offendor.

Howbeit, forasmuch as that which they are
o doe by way of Execution, offereth profit, ei-
her to the King, or to his Subiects: and that
which pertaineth to the King, is brought, a-
out, either immediately, firſt, by Proceſſe (or
mprisonment for the Fine: then by aſſeſſing
f the fine: and laſtly by Eſtreating the ſame:
r elſe immediately, by Eſtreating ỹ penal-
ie and forfeiture: I will firſt beſtow a fewe
words vpon the Fine and Eſtreats for the
ing, and then ſpeake of the benefit that be-
ongeth to the ſubiect. Execution for the King.

Where the Conuiction is for Treſpaſſes
gainſt the Peace, Riots, and ſuch other con-
empts and offences againſt the Commiſſi-
n or Statutes, for the which no certaine fine
s appointed: there (as you haue ſeene al-
eadie) the Iudgement is, That the partie
hall be taken to ſatisfie the King for his Fine:
nd thereupon, the Capias pro Fine, and (if
he partie cannot bee found) other Iudiciall
roceſſe goeth out, till he bee Vtlawed: vn-
eſſe it bee in a verie few caſes, where (by
he words of the Statutes themſelues) they
nay proceed to aſſeſſe the Fine in the ab-
ence of the parties, without calling them
o it by any Proceſſe: for ſo it ſtandeth in the
ſtatute

statute of Alehouses, 5.E.6.cap.25. (as I told you euen now) and in the statute of highwaies 5.Eli.c.13.

But if the partie be brought in, then is he a prisoner, and then are the Iustices of Peace (by their discretion) to assesse the Fine, and to estreat it, and to deliuer him.

For in no case (as I take it) can they of themselues leuie any fine or forfeiture, due to the King, insomuch as not they, but the Sheriff is accountant for all such matters.

Imprisonment. The imprisonment that I speake of, is not lie to the end that the King may haue the fine and therfore vpon the paiment thereof (or by on pledges found by Recognisance to pay the offender ought to be deliuered, 2.Mar. B. Imprisonment 100.

Hereof also the fine tooke first his name, by Latin, Finis, because it maketh an end be the King for the imprisonment laid vpon the offence committed against his law.

Difference betweén Fine, & Amercement. And in that respect chiefely, doth it differ from an amercement: For when the offendor hath not so déepely trespassed, that thereby it deserueth any bodily punishment at all, as if he be nonsuit in an action, or doe commit any such like fault) he is said to fal into the Kings mercie, because he is therin mercifully to be dealt with.

And by the great Charter (cap.14.) that a mercement and summe of money, which he

pay for the same, ought to be assessed & aſ-
ered by the good & lawfull men of the neigh-
ourhood, which also Glanuil li.9.ca.11.affir-
eth to haue beene the Law of the land long
efore that time, saying, *Misericordia Domini*
egis est, qua quis per iuramentum legalium homi-
de vicineto, eatenus amerciandus est, ne aliquid
suo honorabili contenemento amittat.

But where the offence or contempt falleth
t to be so great, that it asketh the imprison-
ent of the body it selfe, and that during the
.will and pleasure: then is the partie to re-
eme his liberty with some portion of money
he can best agree with the king, or his Justi-
s, for the same: which composition is proper-
called his Fine, or his Ransome, and in La-
ne, *Redemptio*, as may be plainly seene by the
atute of Marleb. 52. H. 3. cap. 1. 2. 3. and 4.
nd by the statutes called Ragman, and diuers
ther ancient statutes. Where (by the way) it
emeth by the property of the word *Redemptio*,
at the party offendor ought first to be impri-
ned, & then to be deliuered (or ransomed) in
nsideration of his fine.

Also whereas any statute speaketh of Fine
Ransome both, (as 38.E.3.c.9. & others doe)
is taken, that the ransome ought there to be
the least treble so much as the Fine, Coll.
ier. 232.

But now of later time, the Iustices them-
lues haue in some cases of Amercements al-

so, vsed to assesse and rate the same without a
ny other helpe: As where the officers of their
Courts haue offended, 33. H.6.54. 34. H. 6.
20. & Lo. 5. E.4.5. which also seemeth to make
an other difference betweene the two words.
But because neither of these be strictly obser-
ued, either in common speech or in the vnder-
standing of the latter statutes, I will no lon-
ger stand vpon it.

Fine by discretion of the Iustices.

Now therefore, if the offence be finable, by
generall words only, without speaking of any
Fine, or without shewing by whom the Fine
shalbe assessed (for so it is commonly in the o-
der statutes that doe prohibite any thing to b
done) there the assessement thereof belongeth
to the Iustices before whom the conuiction is
lawfully had.

Againe, if it be finable by these (or such like)
words, At the Kings will, or At the Kings plea-
sure (as you shall find it in many statutes) the
also the same Iustices (before whom the con-
uiction was) shal assesse the fines at their wils
and pleasures. For (say the Bookes 2. R. 3. 1
& 18. H. 8. 1.) the king (in all such cases) tem-
reth his own will & pleasure, by the mouth
of the Iustices.

And yet some statutes (vsing plainer speech)
do namely refer the fine to the discretion of
Iustices of peace.

Destroy the fry of fish.

For they may (vpon conuiction had before
them) set fine by their discretion vpon such
tak

take Salmons, or destroy the fry of fish in riuers, against the statutes, W.2. cap.47. 13.R. 2. cap. 19. & 17.R.2.ca.9. And as this is said of the fine, so sundrie statutes doe giue the same power to the Iustices of peace, in the execution of the corporall punishment it selfe, as you haue alreadie heard in the cause of counterfeiters of false letters or tokens, and may read in other the statutes at large. For, I labour to be short, and therefore I giue but an assay of each thing, knowing that these Iustices will not proceed to the execution of any statute, without the sight of the statute it selfe, howsoeuer they should find it alleadged by me.

And in these cases (euen as in cases of Amerciaments) the Iust. ought to take heed, that the Fines be reasonable and iust, hauing regard to the quantity, of the trespasse, & to the causes for which they be made, as it is commaunded by the statute 34.E.3. cap.1.

But this Fine (or paine) alwarded by the discretion of the Iustices of P. shal doe the more wo, both to the Prince in profit, to the people for example, and to the Iustices themselues in credit, if it be pronounced at the bench openly (as it ought to be) & not shufled vp in a chamber (or corner) secretly, as in some places it hath beene vsed to be. Fine to bee assessed openly.

I haue heard, that euen in cases where the statutes doe appoint a certaine forfeiture (as one pounds, or ten l. &c.) yet the practise is, to Mitigation of the forfeiture of a statute.

mitigate the same by discretion, if so be that the partie will come in vpon the indictment, and put himselfe *in gratiam Regis*, (with, or without confession of the fault, as I haue told you before) so that the fine shal be smal, where the fault was great, and the penaltie of the law it selfe not small.

But this maner of doing (in my mind) is so void of sound reason, that I cannot recommend it to the Iustices of peace, but doe rather condemne it as a mockery of the law. Yea, I find that sundrie statutes (fearing belike some such thing) haue specially preuented it, commanding that Iustices of the peace shal assesse no lesse Fine, then is in those statutes themselues beforehand appointed.

Such is the Statute 17.E.4.ca.4.of Tiles: the statute 33.H.8.cap.6.of Crossebowes, and Handguns: and the Statute 5.Ed.6.cap.[illegible] concerning Alehouses: and such other may be found, if the Bookes of statutes be wel perused.

And althought it may séeme good husbandry to take such a Fine by a manner of confession before conuiction, rather then to hazard the losse of al the profit that may come to the K. thereby (as indéed that must ensue, if no conuiction be had) yet who séeth not, that the other way is much more seruiceable, and that this is but to looke through the fingers (as wée say) and to strike or slap at a fault with a Fore taile, and

now

none other.

But hitherto wée haue not sufficiently performed that, which the Commission of the P. hath in these words, *Saluis nobis amerciamentis, & aliis ad nos inde spectantibus:* and therefore, it is not ynough to haue assessed the Fine, but we must also disclose the meanes by which, as well this Fine (that is reduced to certaintie by the discretion of the Iustices) as all other Amerciaments, and those other penalties and forfeitures also that are certainly prefixed by words of the Statutes, may be leuied and brought into the K. Coffers. Estreating for the King.

Order was taken by an auncient Statute, (intituled *de Scaccario*, and noted to be made 31. H. 3.) that al Iustices, Commissioners, and Enquirers whatsoeuer, should deliuer into ỹ Exchequer (at the Feast of Saint Michaell yearely) the extracts of fines & amerciaments, taxed & made before them, that the K. might be duely answered thereof. And the same (in effect) was afterwards confirmed by another Statute, entituled, *De forma mittendi extreta ad Scaccarium*, which although it bée said to be made 15. Ed. 2. yet forasmuch as it mentioneth that the former Statute was made in the time of the father of the same King which made the later, it must néeds be, that either the one or the other of them was made in the time of king Edw. 1.

No doubt, but this ordinance doth extend to

the Iustices of P. as a man may easily gather by words in the statute of Labourers, 5. El. cap. 4. and by the act of Sewers, 13. El. cap. 9. and other statutes. But because it is verie general, and hath nothing peculiar vnto them from other Iustices, I will descend to lower times, and loke there for neerer helps.

The statute 12. R. 2. ca. 10. had allowed to everie of eight Iustices of the P. foure shillings by the day, for the time of their Quarter Sessions, to be paid (by the hands of the Sherife) of the Fines and Amerciaments comming of the same Sessions. But because it was soone after seene, that it was a great delay to the Iustices of peace in this paiment, to expect the leuying of these fines and amerciaments by Estreats, first sent vp to the Exchequer, and then deliuered thence to the Sherife (which was at that time the common maner of leuying fines and amerciaments) therefore it was within two yeares after (viz. 13. R. 2. ca. 11.) prouided, that the Estreats of Iustices of Peace should be indēted (or doubled) and the one part thereof deliuered by them to the Sherife, to the intent that he may leuy the money thereof rising, and pay the Iustices their wages by Indenture betweene him and them to be made, and the barons of the Exchequer may charge and allow him vpon the making of his account accordingly.

And hereby (as I thinke) the Estreats of the Iustices

Iustices of the Peace bee now an immediate warrant for the Sherife, to leuie, not only the fines and amerciaments, but also all other issues, penalties, losses, forfeitures, & summes whatsoeuer, arising before them: For the words of the statute are generall, The money thereof arising: and therefore, whatsoeuer summes are to be estreated into the Exchequer, the same are also to bee leuied by the Sherife.

Such order did the statute take (33. H. 8. c. 10. of the sixe weekes Sessions) for the leuying aswell of fines and amerciaments, as of paines, losses, and forfeitures of money: so did the statute of Tillage (2 & 3 Ph. & M. c. 2.) by way of admittance rehearse, ỳ Iustices of the peace may make ot proceſſe for ỳ leuying of fines, and Forfeitures before themselues: so doth the statute of Cottages, 31. Elizab. cap 7. appoint, and so are the Estreats made (for the most part) and the fine and forfeitures thereby leuied at this present time, if I be not deceiued.

And these are properly called Estreats, of the word *Extracta*, because they be short notes (or Memorials) extracted or drawn out of the records, by the Clerke of the peace, & by him inuented & deliuered sunderly to the Sherife, & to the Barons of the Eschequer, bearing this (or the like) title, *Extract finium et amerciamẽtorum forisfactorum, ad generalem Sessionem pacis tentam*

tentam apud Maidstone, &c. coram &c. For the whole forme of the making whereof, there is full direction giuen to all Clerks of Estreats by the statute 7. H. 4. cap. 3. whereunto I refer them.

Iust. of the P. ought to haue care of Estreats.

Howbeit, I do not thinke, that in our case this dutie of estreating is so peculiar to the Clearke of the Peace, but that the Iustices of the Peace themselues, ought also to haue a common and carefull eie vnto it: For (if you remember) it is both specially prouided for in the Commission, and also an article of their oath, to see vnto the faithfull entrie and certificate of the Issues, Fines, Forfeits, & Amerciaments, that do happen before them. And therefore it were well done (in my opinion) if the Iustices would, by Turne (or otherwise) both take knowledge of things that haue passed before them, and also take order that the same be certified accordingly: lest otherwise it lie altogether in the power of the Clearke of the P. to saue or slay (as one said) the Sparrow that he holdeth closed in his hand.

Executorie Proceſſe, and Execution, for the parties that ſue, or for other perſons: and of the reſtitution of goods ſtolken.

Cap. XVII.

ALbeit that the Juſtices of the peace haue this power to make warrant for leuying the Amerciaments, Fines, and other Forfeits, that grow vnto the King by their ſeruice: yet t commonly thought, that they may not t in ſomecaſes only, (that by ſpecial ſpech he ſtatutes) make executiõ (either for him t will ſue, or for any other) of ſuch part of forfeiture, as the Law doth affoord them. For moſt commonly the partie that wil ſue, ut to his Action at the cõmon Law, for reery of that which he is to haue: as for his itie growing vpon conuiction of any offẽce trarie to the Statute 13. Elizab. cap. 14. cerning bringing ouer of Bowſtaues, or trarie to the ſtatute of Muſters, 4. & 5. & M. cap. 3. he is to commence his Acti- (or Bill) of Debt: and ſo of ſundrie others t are each where to be found. But where y haue power, either by their Commiſſion, or

Bowſtaues:

Muſters.

or by any statute, to heare and determine any cause at the suit of a priuate person, I doe not see how the cause can well be said to be fully determined, till the complainant hath had the effect of his suit, which cannot be without execution.

Forestallers. Doubtlesse, by speciall prouision, made by the statute 5.E.6.ca.14. against Forestallers, the Iustices of the peace may make execution of the one moitie of the forfeiture of him that sueth, by Fierie facias, or Capias, as the Iustices at Westminster vse to doe.

Badgers, &c. The like power haue they, for leuying the moitie of any forfeiture against the Statute (made quinto Elizabethæ cap. 12.) concerning Badgers, Drouers, &c. and their licences.

Liueries. For the moitie growing to the Informer vpon the statute of Liueries, (8.Ed.4 cap.) they shall make such execution, as ought to be had in recouerie of Debt or Trespas, at their owne pleasure.

Flaxe and Hemp. They may also award execution for the moitie that sueth vpon the Statute of Flaxe and Hempe, 24.H.8.cap.4. by such processe as them shall seeme by their discretion.

Highwaies. And the Estreats (made by the Clerke of the peace) of forfeits for defaults of amending Highwaies, are a sufficient warrant to the Constables to leuie the same by distresses, to the vse of the Churchwardens of the Parish wher

default was, toward the amendment of
said waies, 2. & 3. Ph. & Ma. cap. 8. & 5.
z cap. 13.

nd likewise the Estreats of the Iust. of P. Sheriffs turne
any fines assessed by them vpon presents
ts in the Sherifes Turne) being inrolled,
ented, and deliuered to the Sherife, are a
warrant vnto him to leuy the same to the
of him that was Sherife at the time of
presentments taken, 1. E. 6. ca. 2.

do may I. of P. award processe of Execu- Issues.
, for leuying the forfeitures, vpon offen-
against the statute 27. Eliz. cap. 7. of Is-
lost by Iurors.

may they in like maner award execution Tillage.
fieri facias, and Capias, of two third parts
he forfeitures (the one for the complai-
t, and the other for the prize) by the stat. of
bandrie & tillage, as the Iust. at Westm.
to do, 39. El. ca. 2. 1. Iac. ca. 25.

vpon the Statute of Periury, 5. El. c. 9. Periurie.
n the statute 5. E. 6. cap. 4. for drawing of
pon to strike in Church or Churchyard. Striking.
peraduenture search wil afford you some
examples: but these may suffice for my
re, which is not (in this, or any the like) to
unt all, but to make good proofe of ỹ which
fer and propound, the rather that the Iu-
s and Clearke of the Peace, may thereby
occasion to looke vpon the Booke, when-
ner Execution is prayed for any cause,
depen-

depending before them vpon whatsoeuer statute.

Restitution of goods stollen.

And because the awarding of restitution of goods stollen to the owner, or partie robbed (after the attainder of a Felon by reason of the euidence giuen by them) is a maner of execution for the partie: I may without violence bring hither the effect of the statut made in that poynt, and lying within the authoritie of Iustices of the Peace, which standeth thus. If any Felon of goods, money, or cattels (taken from any of the Kings Subiects) bee indicted, arraigned, and found guiltie thereof, or otherwise attainted, by reason of Euidence giuen by the partie robbed, or the owner of the said goods, money, or cattels, or by any other to their procurement: Then shall such partie or owner bee restored thereunto: and the Iustices (before whom such finding guiltie, or such attainder shall bee) shall haue power to award Writs of Restitution therefore, 21. Hen. 8. cap. 11.

Of certifying the Records of the Sessions of the Peace to other Courts or Officers.

Cap. XVIII.

AS we haue already manifested, Iustices of the Peace haue not a sufficient and thorough power (of themselues) to heare and determine all ses, wherof they haue in their Sessions auitie to enquire: So also be there sundrie ngs determinable befoze thē there, which ertheles may (in some respects) be brought second handling: either to the end to rese that which they haue done, oz that their ngs may be an euidence and testimonie in triall of causes befoze other Iudges.

And becauſe this cannot in any soꝛt be permed, without the pzesence of those foꝛmer coꝛds (oz the transcripts thereof) which be with the Iustices of the Peace: it is therre requisite, that they doe make certificats of m vnto those other Courts, oz officers that ll be interessed to vse the same.

But as this Certificate ought in some cases e made by the Iustices of Peace (oz their erke) without any Wꝛit of Certiorari therfoze

fore directed: and in some other cases they
spare to certifie, until that writ (or some
commaundement) be brought vnto them:
also sometimes they are to certifie and
vp onely a Tenor (or Transcript) as I said,
the Record before them: and sometimes
verie Record it selfe must be conueyed
them.

Certifie without the writ of Certiorari.

The Clearke of the Peace must (vnder
paine of fortie shillings) certifie into
Bench, a true Transcript of euery Attain
Vtlawrie, & Conuiction (had before Iust
of the P. in any place, except Wales, Ch
Lancaster, & Durham) within forty daies
ter, if it be then Terme: & if not, then wit
twentie daies after the beginning of the
Terme: that the same may there also appe
of record to be vsed vpon cause, as that stat
hath appointed.

And he must also deliuer to the Ordinar
Transcript of Clerks conuicted or attain
before the said Iustices, 34. Hen. 8. cap.
But enquire whether this last bee needfull
this day, by reason that Clerkes be not now
liuered to the Ordinary, by the Statute 18. E
cap. 7.

And if a principall be attainted of murd
or felonie, in one County, whereunto anot
is accessarie in any other Countie: then by
writing from the Iustices of Gaole deliu
of Oyer and Terminer, to the Custos Rotu

n (where such principall is attainted) hee
ll certifie in writing vnder his Seale to the
d Iustices, whether such principall be at-
nted, or otherwise discharged, or not: that
y may proceed thereupon to the trial of the
cessarie, 2. Ed. 6. c. 24.

But in cases where Iustices of the Peace
ue power to receiue Enditements, and no
wer to proceed any further vpon them,
ereof you haue already the examples in the
enth Chapter of this present Booke) there
y ought to send vp and certifie the Endite-
nts themselues, and that of dutie (as
hinke) without any Certiorari comman-
g the same: because, hauing none autho-
ie to heare and trie the offences, the Re-
ds thereof shall bee vnprofitable before
m: and therefore they can haue no iust
se to retaine them, and yet (for the more
retie) it is specially commanded (by 5.
izab. cap 1.) that they shall certifie the pre-
tments of some offences against that Sta-
e.

And so if a man bound to keep the peace do
ke default of apparance at the next Quar-
Sessions, the Recognisance it selfe (toge-
r with the record of that default) must bee
tified into the Chancery, K. Bench, or Ex-
equer, that Execution vpon the Recogni-
nce may be had there, 3. H. 7. cap. 1. and so
ght it (as I thinke) if it be presented, that y
partie

partie hath forfeited his Recognisance by breach of the Peace: And likewise, if it be presented before them, that the chattels of a man attainted of Felony, be in the hands of another. For, in these and such other cases, where they cannot of themselues proceed, they ought to send the Records to such as haue authoritie to determine vpon them: and otherwise they do not discharge that dutie, which the words *Saluis &c. & aliis ad nos inde spectantibus*, in the Commission do seeme to expect at their hands.

Abiuration. The abiuration of a seditious Sectarie, being made in the open Quarter Sessions of the Peace, ought to be certified from thence to the Iustices of Assise at the next Assises, 35. Elizabethę cap. 1.

Furthermore, the Statute of Purueyors (2. & 3. Phil. & Mar. cap. 6.) doth appoint the Iustices of the Peace, to certifie to the Treasurer of the K. houshold, the Dockets of Purueyors (brought to their Sessions by Constables) that the serving of such commissiõs, the true aunswering of Purueyances may the better examined thereby: and although may be doubted, whether these be Records no, yet for that they are to be certified from Sessions of the Peace, I sticke not to affirm them this place. And if you will also repute this number, the licences (and such other of that kind) which passe at the Sessions of Peace, I will not be against it.

Touch

Touching the *Certiorari*, it is of force (if it
made accordingly) to remoue not only En-
tements, or other executory Records, where
the Iustices of Peace can goe no further,
nd whereof I haue spoken already) but also
Records of causes fully & lawfully heard,
d determined by them, to the end that they
y be reuersed and annulled in the Kings
ench, if good matter and cause doe re-
ire it.

For that preheminence hath the Kings
ench, as you may see by proofe: yea, al other
higher Courts may write to the Iustices
peace, to certifie their records that do make
the trial of causes hãging in them, as you
y read 19. H. 6. 19. where they of the Com-
n place did send to the Iustices of peace for
Enditement, because in a Writ of Conspi-
ie (brought before them) it was materiall
haue it.

And yet neither they of the Common plate,
Kings Bench, do vse to write for Endite-
nts or such other Records, vnlesse they be
reunto induced by cause hanging in their
ne Courts before them: For otherwise the
ht way to remoue them is by *Certiorari* out
he Chancerie, from whence they may bee
nsferred (by *Mittimus*) to any other Court
li. Ass. pl. 22. Knyuet Chiefe Iustice.

owbeit a man may gather vpon the booke
R. 3. 4.) that if any Record be sent vp with-

out warrant to such a higher Court, they may there proceed vpon it: because it is there by made a Record in that Court: and that Court is the Court of the King, as well as the other.

Of the generall, (or Quarter) Sessions of the Peace.

Cap. XIX.

WE haue hitherto laboured, and the length runne ouer, sundry things (which in the opinion some men (be common to all Sessions of the Peace: And yet, because there also certaine matters (as it seemeth to me) appropriated, some to any, & others to some of the generall Sessions: it remaineth that we now distinguish the Sessions of the peace & enter into consideration what is a generall and what a speciall Session.

The generall Sessions.

The general Sessions of the peace be those which are prouided for the generall execution of the authority of the Justices of Peace, whether you respect the limits of the peace, within their commission, or the bounds of power proceeding from the Commission and Statutes. For at these Sessions (as saith M. Fitzherbert) generally al things ought to be giuē in charge

hat do lie within the authority of these Justi-
es to be determined.

These be moreouer called the Quarter Ses-
ions, because they be holden quarterly foure
imes in the yeare: and the Statute (4.H.7.
ap.12.) tearmed them principall Sessions,
or that in them chiefly the power of Justices
f the Peace doth shine and shew it selfe; in
hich respect 27.Eliz.cap.19. and some other
tatuts doe giue them the name of open Ses-
ions also.

But wee shall not need to dwell vpon the
ames, whereof there can be no great contro-
ersies, seeing that they all doe aime at one
arke: yea rather because these general Ses-
ions be at this day diuersly summoned, be-
un, and continued in diuers parts of the
ealme, it lyeth fitly in my way, to make exa-
ination of that diuersitie in this doing.

For (to begin with the Summons) the ma- How many Sessions.
er is (in some Shires) to summon yearely
re standing Sessions of the Peace: in others
. in others 12. or 16. and in others otherwise.
ll which is done, chiefly vpon pretence to
ase the inhabitants of the County, for whom
t would otherwise be verie painefull to tra-
ell so often and so farre from all the parts of
he Shire to any one place of the same.

And therefore, such as do maintaine 6. or 8.
essions, do vse to summon al the whole shire
o a couple of them, and to the residue they

call onely such parts of the Shire, as they do there specially appoint: But yet so, that (upon the reckoning) each corner of the Country giueth attendance at foure seuerall Sessions: which also falleth out accordingly in those Shires where they haue twelue or sixteene Sessions.

For albeit that they doe not at any one time summon the Shire to any one place (as the others doe) yet diuiding their Shire into three or foure parts, and keeping foure seuerall Sessions in each of those parts, they also (as well as the other) doe serue their whole Country with foure sundry Sittings. And therein (in mine opinion) although none of these do follow the precise letter of the Law, (which requireth but onely foure quarter Sessions in any shire:) yet euery of them draweth nigh to the true meaning of the Law, which looketh for nothing els, but but that the Court of the Sessions should yeerely bee foure times open for the whole Countie.

But if there be any that doe (for this purpose) diuide their Shires into halfes, and do hold onely foure Sessions in the yeare, that is to say, two in the one part, and two in the other, calling the one halfe of their Hundreds to those two Sessions at the one place, and the other halfe to the other two Sessions holden at the other place: these men (as some haue thought) doe neither retaine the letter nor re-

taine

ine the meaning of the Law, in this doing.
or vpon ỹ matter, no part of their shire hath
y moe then two Sessions: which manner
ho seeth not how much it may hinder Iustice.
I remember I haue read, that amongst o-
er the desires of those that accõpanied Iacke
ade to Blacke-heath in Kent, this was one:
at (for sauing of labour) the Quarter Sessi-
ns might be holden in two seuerall places of
at shire: and it is verie likely, that thereup-
the same were first kept interchangeably
two sundry townes. But howsoeuer for the
me it was thought good in a sort to yeeld to
at importunitie of the common people: yet
n there no good reason be rendred, that the
essions should be now continued in the ma-
r as they are.

For, if any will seeke to salue it in saying,
ey do call the Constables of the whole shire
euery of those Sessions; yet they cannot so
cape: because both reason it selfe, and their
wne experience herein doth informe thẽ, that
is likely they shal haue more presentments,
here moe persons (that can present of their
wne knowledge) be assembled, and doe take
e charge vpon them.

Besides all which, these men do not bring
ase but trauell and delay to their Countrey-
en: whom (by this means) they do compell,
ther to goe far (out of one part into another)
haue a fault punished, or else to tarrie for

helpe till a Sessions shall be kept in that quarter where they inhabite.

Neither may I well omit, that this doing may breed danger to the Justices themselues, whilest any of them (hauing taken a Recognisance of a Tipler) doth not certifie it vntil the Sessions happen to be in his owne part, and in the meane season, the nert Sessions of the peace (within the shire) chanceth to be holden in the other part: whereof what may follow, the statute 5. Ed. 6. cap. 25. will tell you, and teach them. And like fault is it (though not like forfeit) so to retaine a Recognisance taken for the peace, as you may see by the statute 3. H. 7. cap. 1.

The times of holding the Quarter Sessions.

Thus much of the summons (or number) of the quarter Sessions: Now followeth the time in which they ought to be holden: about the which also all Counties do not agree: and therefore it shall be good (before other things) to peruse those statutes, which doe (either in deed or shew) concerne this point.

The statute 25. E. 3. cap. 8. ordained thus: Item, that the said Iustices make their Sessions in all the counties of England, at the least foure times in the yeare, viz.

At { The Annunciation of our Lady:
Saint Margaret:
Saint Michael: and
Saint Nicholas.

The

The Statute 36.Ed.3.cap.12. saith, That
e commission of the Peace shall make menti-
on that the Sessions shall be holden thus.

Within the Vtas of the Epiphanie.
Within the second weeke of Lent.
Betweene Pentecost and Midsomer.
Within the Vtas of Saint Michael.

The Statute 12.R.2.c.10. doth afterward
t the matter at libertie, saying, They shall
old their Sessions in euerie quarter of the yere
the least. But they of Midleser be excepted
14.H.6.cap.4.

Lastly, the statute 2.H.5.ca.4. doth reduce
e times to certaintie againe, saying thus:

Ouer all the Realme the Sessions shall be.

n the first weeke after — Saint Michael. The Epiphanie. The clause of Easter. The translation of S. Thomas the Martyr.

The first of these foure statuts doth (in shew,
nd in cõmon opinion) concerne the Sessions
f the Justices of peace, but in truth it belon-
geth not at all to them: for it was made to di-
rect the Justices of Laborers in the times of
olding their sessions: and they were not Cõ-

missioners of the peace, but especially Iustices for the causes of labourers alone, not resiant in the countrie, but sent downe for the time of that seruice, as it may expressely appeare, not onely by the preamble and all the parts of the said Statute it selfe, but also by the Statutes, 28. Ed. 3. cap. 5. 31. E. 3. cap. 6. & 34. E. 3. c. 11 during al which time also, the wardens of the peace were neither called Iustices by any statute, nor authorised to deale with Labourers, For in 34. Ed. 3. ca. 1. they are called Wardens, and the first name of Iustices of the peace by any statute that I haue seene, is found 36. E. 3 c. 12. before mentioned, where it is said thus In the Commissions of Iustices of the peace, and of Labourers, expresse mention shall be made, that they shall hold their Sessions, &c. as before. And as for the authoritie ouer Labourers, that was first appointed to Iustices of the Peace by the Statute 42. E. 3. ca. 6. in the fourth chapter of which said statut, there were certaine Cõmissions disliked, (of which, I beleeue, that of the Iustices of Labourers was one) and order taken, that from thenceforth some of the Iustices of the one Bench, or other, or Iustices of Assise, as Iustices of peace with other of the most worthy of the country, should be named in all Cõmissions of Enquirie: so that we haue not herein to doe with the statute, 25. Ed. 3. cap. 8. and may therefore proceed to examine the rest that doe follow.

The

The next is the statute, 36. Ed. 3. cap. 12. But neither that maketh any law for holding the Sessions of the peace at this day, aswell because it was set at large by 12. R. 2. cap. 10. as also (if it were not) because the Commissions of our time vse no such mẽtion as it commands.

Then come we to 2. Hen. 5. ca. 4. which restraineth the libertie of 12 R. 2. cap. 10. and reduceth the times of these Sessions to certaine again: and yet so, that the one of these statutes doth not fret the other: for the latter is an exposition of the former, so that it is all one as if they both had bin but one law, and should haue said; That the Iustices of peace shall hold their Sessions in euerie quarter of the yeare at the least, namely in the first weeke after *Saint Michael*, in the first weeke after the Epiphanie, &c.

Now to proue that the Quarter sessions of the peace, were or ought to be holden after the descript of this statute, 2. H. 5. cap. 4. vntill the time of the statute 5. Eliz. ca. 4 these be my warrants.

First, M. Marrow saith plainely, that in his daies the Quarter Sessions were so holden.

Secondly, forasmuch as there can bee no higher authoritie of exposition, then to construe one statute by another, I will shewe you some statutes also that haue accounted

of

of these Sessions to be holden accordingly.

At the generall Sessions after the feast of Saint Michael, the *Custos Rotulorum*, or (in his absence) the eldest of the Quorum, ought to appoint two Justices of the Peace for the ouer sight and controlement of the Sheriffes, and their Clarkes, &c. by the Statute, 11. Hen. cap. 15.

And at the generall Sessions holden at Michaelmas, the Justices of Peace ought to appoint searchers for Brasse and Pewter, by the statutes, 19. H. 7. cap 6. & 4. H. 8. cap. where the word (At) must of necessity be vnderstood for (After) whether you will take it according to the said Statute, 2. H. 5. cap. which saith plainly (after) or according to E. 3. 12. which saith, Within the *Vtas* of S. Michael, seeing that the *Vtas* (as euerie man knoweth) is alwaies after the feast, and not before it.

But (to proue two at once) whereas the Statute, 27. H. 8. cap. 5. had taken order for Justices of the Peace to be made in Chesh. and certaine other shires, and had willed that they should be sworne to the keeping of the Sessions of the Peace, &c. as other Justices of the Peace in other the Counties of England were, it fell out, that the Gentlemen and Freeholders of the country of Chesh. were much troubled by attending yearely, both at the said foure Quarter Sessions, and also at

ght or nine County Courts which they had
ides, and thereupon it was prouided by a-
ther Statute 32.H.8.cap.43. that the ad-
ministration of Iustice (before time vsed in
said County Courts) should from thence-
th be don and executed at two times in the
are only, that is to say, at the Sessions next
er the feast of S.Michael, & at the Sessions
t after Easter yearely for euer.

I might adde that the Quarter Sessions
the weeke next after the Clause of Easter,
s tied to the Tuesday of that weeke, by the
tute 33.Hen.8.cap.10. And that it was not
thout some graue consideration, that the
tut 2.H.5.ca.4. did command the Sessions
the Peace to be holden ouer al England, in
e and the same weeke: but I thinke it clear-
enough proued, that hitherto the Quarter
ssions ought to be directed by that statute:
d therefore I will descend to the Statute
Eliz. cap.4. and weigh the time in which
ey ought to be holden at this very day.

The words of that statute be these: As much
al the statuts heretofore made & euery brāch
them, as touch or concerne the hyring, kee-
ng, departing, working, wages, or order of
ruants, workmen, Artificers, Apprentices, or
abourers, or any of them, and penalties & for-
itures concerning the same, shall be repealed
nd vtterly void & of none effect: And that all
he said Statutes, and euery branch thereof, for

any

any matter contained in them, and not repealed by this statute, shall remaine and be in full force and effect, any thing in this statute to the contrarie notwithstanding.

Upon this statute some haue thought, that the said statute 2. H 5. cap. 4. is repealed concerning the branch of the Sessions: and others do thinke the contrarie: and therfore vs hold the beame, and put in ballance the reasons on either side.

They of the one side doe alleadge, that the braunch of the Sessions lyeth in the midst of the statute (2. H. 5.) which was made for Labourers, and that it was only meant of Sessions to be holden for the order of Labourers and so is within the words of repeale.

And they say also, that it will fall out vnreasonably, to hold the Sessions (especially that after Michaelmas) according to this statute because the same happeneth very nere to the terme of Saint Michael, whereat the presence of many of these Justices is no lesse requisite then at the Sessions of the peace.

They on the other side, do gather vpon the said words of 5. El. c. 4. that some parts of the statutes of Labourers must nedes remaine in force, notwithstanding these words of repeale for otherwise (say they) the makers of 5. El. might (with lesse labour of speech) haue repealed them all at once.

And therefore they say, that two statutes

bozers, (viz. 12.R.2.ca.3. & 23.H.6.ca.13.)
yet in force for so much of them as doth
cerne Victualers: and likewise, that so
ch of this statute, 2.H.5.ca.4. as doth con-
ne the restancie of those Iustices of ỹ peace
ich be named of the Quorum, & the holding
he Quarter Sessions, is vnreapealed also:
that they concerne not ỹ hiring, keeping
or order of seruants &c. (which might be
s without the Sessions of the peace) but
generall seruice of the Commission and
tuts that do authorize the Iustices of peace,
ereof also these Sessions be called the Ses-
ns of the Peace.

nd it is not new (in their opinions) to find
enerall ordinance in a particular statut: as
the statute 38.H.8.cap. 39. made specially
the erection of the Court of Surueiors,
re is a generall law, that all Obligations
ncerning the kings cõmodite, shall be made
himselfe by the words *Domino Regi &c.*

Neither was there euer (say they) any quar-
Sessions holdẽ (only for the causes of La-
urers) by the Iustices of Peace, although
petite Sessions of Constables were chief-
bent to that seruice.

And that the said statute 2.H.5. did meane
e verie Sessions of the peace, and no other,
ey offer to prooue by the authoritie of those
lfe same statutes, which be alleadged alrea-
e for ỹ holding of the Quarter Sessions, vn-

till

till the time of this Act of Queene Elizabeth for that they haue heretofore so construed and taken the Statute.

But to make the proofe full, they adde, that euen this same statute of repeal, 5. El. c. 4. in a certaine place thereof speak of the Quarter Session to be holden after Easter, which cannot be vnderstood of any other of those statutes concerning the Sessions, but only of 4. H. 5. ca. 4. because the rest (that haue certaine) doe appoint that Session, either at the Annunciation of the blessed Virgine, or in the second weeke of Lent: And likewise that the statutes 8. Eliz. cap. 9. concerning the priuie vessels of Hope, Ale, and Beere, and 14 El. cap. 5. and 18. Eliz. cap. 3. concerning Rogues people and Vagabonds, haue mention of the Quarter Sessions, to be holden next after Easter: Which Statutes as they make not (in this point) a new Law, but be grounded vpon former Law, supposed to be in force: So the ouerslowing of any one of these foure Sessions they do therein giue allowance of al the other three also.

For answere to the Obiection, of the nearenesse of the Michaelmas Sessions, to the Michaelmas Terme, they say, that this was no reason to the makers of that Statute, 2. H. who doe therein dispence with the absence of the Iustices of the Benches at Westminster the Barons of the Exchequer, &c. And yet

he end, that they also might once in ỹ yere
present at a Sessions of the Peace (for the
ter direction of that seruice) the statute 33.
8.c.10. did specially appoint, that the Ea-
Sessions should be holden yerely vpon the
nesday next after Low-Sunday, in euerie
ire of the Realme.

Now, if it shall seeme to any man a strange
ng, that I moue question of the time of hol-
g these Sessions: I let him know, first, that
s one of the Articles of the Oath, ministred
the Iustices of peace, That they should hold
ir Sessions after the forme of Statutes thereof
de.

Secondly, that the Articles of many Sta-
tes are inquirable (as it may seeme) onely
the Quarter Sessions: because they are
t in the Commission at all, and the Sta-
tes themselues doe appoint of none other
quirie touching them, but at the Quarter
ssions alone: and then, if the Iustices of
ace do not hold their Quarter Sessions ac-
ding to the limits appointed by the Law,
ey be no Quarter, but Speciall Sessions, and
nsequently, such Statutes shall either not
inquired of at all, or else inquired of with-
t warrant, both which be verie great incon-
niences: So, that this matter (if it be not
ghtly conceiued) tendeth both to the hurt of
e Conscience, and to the hinderance of
is seruice. And therefore it is to bee wished,

that

that as the oath of the Iustices of peace is ouer all, and the seruice ought each where to be alike: So it might bee made knowne, whether by declaration of these old Lawes, or by ordaining of one new what ought to be vniformely done and followed in this behalfe.

How long the Quarter Sessions shall continue.

Touching the continuance of these Quarter Sessions, I haue shortly but this one thing to say: that almost two hundred yeeres agone it was ordained by statute (12. R. 2. cap. 10.) that they should be continued three daies together (if needewere) vpon paine of punishment: And yet in these daies of ours, wherein the affaires of the Sessions be exceedingly increased (and consequently, more neede to prolong them now, then before) many doe scarce afford them three whole houres, besides the time which is spent in calling of the Counties and giuing of the charge.

Things referred to the Quarter Sessions.

But now it is more then time that I should reuert to some of these statutes, which do specially relte vpon the Quarter Sessions: & therefore I will first begin with such as haue reference indifferently to any of them.

The Iustices of Peace may in their open Quarter Sessions enquire of, heare, and determine, all offences (except treason, and misprision of treason) committed against the Statute made 23. El. c. 1.) for retaining the Kings subiects in their due obedience.

Pope.

They may alſo in their open Quarter Seſ- ons inquire of ſuch as doe extoll the vſurped thoꝛitie of the See of Rome againſt the ſta- te, 5. El. c. 1. And the Clerk of the peace muſt ad that Act at euerie of the Quarter Seſsi- ons.

Act reade.

All the Articles mentioned in the ſtatute 3. H. 8. cap. 10.) ſhall be inquired of, and re- med by the Iuſtices of peace in their ancient uarter Seſsions, 37. H. 8 cap. 7.

Execution of Statutes.

Wainlings.

They may in their generall Seſsions deter- ine of the offẽces of killing & ſelling Wain- gs vnder two yeeres of age, 24. H. 8. c. 9. 13 ca. 25. & 27. El. ca. 11. and of the offences of keeping Milch Kine and Calues, 2 & 3 E. M. c. 3. & 13 El. ca. 25.

Milch kine and Calues.

Foꝛeſtalling.

The Enquirie, hearing, and determination Foꝛeſtallings, Ingroſſings, and Regra- gs, may be at the Quarter Seſsions, 5 E. 6. p. 14.

Alehouſe.

The Enquirie, whether Alehouſe keepers ne foꝛfeited their Recognisances, ought to at the Quarter Seſsions, 5. E. 6. cap. 25.

Hunting.

The Fine foꝛ vnlawfull hunting by night, with painted faces, ſhall be ſet at the next nerall Seſsions, 1 H. 7. c. 7

Vnlawfull hunting.

If the partie bound to his good Abearing en yeares accoꝛding to the Act made 3 Iac. ainſt vnlawfull hunting, and ſtealing of eare oꝛ Conies, do within the ſame time be- e the Iuſtices of the peace of the Countie

where the offence was committed, or some of them in the open Quarter Sessions, acknowledge his offence, & that he is sory therefore, and satisfie the partie grieued according to this Act: The same Justices in the same open Sessions, or in any other, may discharge the Recognisance and bond so taken, and the partie bound, 3. Iac. c. 13.

Fesants, &c. Justices of Peace in their generall Quarter Sessions, haue authority to examine, heare, punish, and determine, al offences committed against the statute made 1. Iac. for the preseruation of the game of Fesants, and Partridges, and against destroying of Hares. And

Handgun. cence may be giuen in the Quarter Sessions shot haile shot in a Handgunne at Crowes, Choughes, Pyes, Rookes, Ringdoues, Iayes, or smaller birds for Hawkes meat onely, the party licenced becomming bound to the King by Recognisance of twentie pounds, not to shoot at any the fowle prohibited by this Act, nor to shoot within fiue hundreth paces of any Henury, nor within one hundreth paces of any Pigeon-house, nor in any Parke, Forest, Chase, whereof the partie licenced, or his master is not the owner, keeper, or gouernour, 1. Iac. cap. 27.

Horses. Iustices of the Peace may in their Quarter Sessions, enquire of, heare, and determine the offences of putting to pasture any stone horses, &c. vnder the height appointed by

statute 32. Hen 8. cap. 13.

They may at their like Sessions, enquire of, and determine the offences of not amending the highwaies, 2. & 3. P. & M. ca. 8. 5. Eliz. ca. 13. & 18. Eliz. cap. 9. Highwayes.

In their Quarter and Generall Sessions, they ought to enquire of, heare, and determine the offences of not keeping continuall houſholds vpon the precincts of the late Monaſteries, 27. H. 8. cap. 5. 5. Eliz. cap. 2. & 14. Eliz. c. 1. 27. Eliz. cap 11. Keeping houſholds.

And in their Quarter Sessions, they may heare, and determine the offences of Infoꝛmers, 18. Eliz. cap. 5. & 27. Eliz. cap. 10. And at the like Sessions, they may doe the like foꝛ offendoꝛs in Periurie, 5. Eliz. cap. 9. 27. Eliz. cap. 11. 1. Iac. cap. 25. Infoꝛmers. Periurie.

Such as be ſuſpected of vſing counterfeit tokens oꝛ letters, may be called by pꝛoces to the next generall Sessions, and muſt be conuicted there, 34. H. 8. cap. 1. Counterfeit Tokens oꝛ Letters.

Iuſt. of the peace may in their open Quarter Sessions; call beforꝛe them the owner of a wood, and ry. of the Commoners there, foꝛ ſetting out the fourth part thereof, 35. H. 8. c. 17: 13. Eliz. cap. 25. Wood.

The tares foꝛ reliefe of the Poꝛe people infected with the plague, muſt be certified at the next Quarter Sessions: the ſame to continue, be inlarged, extended to other parts of the Countie, oꝛ determined, as to the Iuſtices of Plague.

Peace at such Quarter Sessions, or the maior part of them shall be thought fit, 1. Iac. ca. 31.

Master and Seruant. The proofe of the sufficiency or insufficiency of the cause, for which the Master may put away his seruant, or the seruant may depart from his Master before the end of the terme, shall be made at the Quarter Sessions, 5. Eliz. cap. 4.

Badgers. The licences for Badgers, Drouers, &c. are to be granted in the open Quarter Sessions, 5. Eliz. cap. 12. and the prohibition of transporting Corne, is to be made by the more part of the Iustices of peace at their Quarter Sessions 13. Eliz. cap. 13. See 1. Iac. cap. 25. for transporting of Corne.

Transport Corne.

Tillage. The offences against the new statute of Tillage, are to be inquired, heard, & determined at the Quarter (or Generall) Session, 5. Eliz. cap. 2. 1. Iac. cap. 25.

Prisoners. The Iustices of Peace at their generall Quarter Sessions of ỹ peace, or the most part of them then present, may rate and taxe euery Parish within the shire, at such reasonable summes of money for releife of Prisoners in the common Gaole, as they shal think conuenient by their discretions, so that ỹ same rate exceed not six pence or viij. pence by the week out of euery parish: And the same being leuied by the Churchwardens, and paied ouer to the High Constables, or head Officers of the Towne, Parish, Hundred, riding, or wapen-
take

take, according to this Act, the said High Cõstables and head Officers are to pay the same at euery general Quarter Sessions, to such sufficient person dwelling nere the said Gaoles, as shall be appointed by the said Iustices in their said open Quarter Sessions, to receiue the same, 14. Eliz. cap. 5. and 1. Iac. cap. 25.

Pwze. If the Parish and Hundred be not able to relieue the Powre of the Parish therin, thẽ the Iustices of the Peace (or greater number of them) may at their generall Quarter Sessions rate any other Parishes &c. thereunto: & they may there, by agreement with any Lord of waste or common, set vp habitations there for the Powre, and place Inmates in the same, and they also may at such Session assesse the parents, or children (being of sufficient abilitie) to relieue their powre and impotent children & parents, 39. Eliz. cap. 3. and 43. Eliz. cap. 2.

Inmates.

Powre. The parties grieued by any act done vpon the statute 43 Eliz. cap. 2. are to be relieued by the Iustices of Peace at their generall Quarter Sessions. And the father, grãdfather, mother, grandmother, and child of the powre, being of a sufficient ability, may there be taxed toward the relefe of the said Powre, 43. Eli. cap. 2. 1. Iac. cap. 25.

Houses of Correction. The Iustices of Peace (or the more part of them) may at any Quarter Session giue order, for the erection of Houses of Correction, & for Stocks of Money, & al other things necessary

for the same, or for the gouernment thereof: and they may banish, or condemne to the Gal-

Dangerous Rogues.

lies, such Rogues as shal appeare to be dangerous, 39. Eliz. cap. 4. And may brand them in the left shoulder with a hot burning Iron, with a great Roman R. and thereupon may send them to the place of their dwelling, or to the place where they last dwelt by the space of a yeare, or to the place of their birth, there to be placed in labour as a true subiect ought to do, 1. Iac. cap. 7.

Houses of correction.

And such Houses of Correction are to be purchased, conueyed, or assured vpon trust to such persons, as by the Iustices of Peace, or the more part of them, in their Quarter Sessions of the Peace shal be thought fit: And such Iustices may at their Quarter Sessions of the Peace, (next after such houses built, & so from time to time) appoint Gouernors, or Masters thereof: and may make them such allowance, maintenance, as they shall thinke meete. And if the Masters of Houses of Correction do not euery Quarter Sessions, yeeld a true and lawful accompt vnto the Iustices of peace, of all such persons as haue been committed to their custodie; Or if the said persons trouble the Countrey by going abroade, or escape from such Houses of Correction, the most part of the said Iustices in their Quarter Sessions may fine the said Masters and Gouernors, as they shall thinke fit, 7. Iac. cap. 4.

The deceitfull vsers of Logwood for dying, e to be tried and Iudged to Fine and Pillo-, at the Quarter Sessions, 39. Eli. c. 11. Logwood.

The Iustices of peace (or the more part of m) may by their discretions, in the open uarter Sessions, restraine the conuerting Barley into Malt, 39 Eliz. c. 16. Malt.

They also in their open Quarter Sessions, y conuict such as carrie not, or pay not, to-ards the amendment of the Highwaies in e weald of Kent, Surrey, or Suſſer, as this tatute doth appoint, 39 Eli. cap. 19. and the esentmēt of such defaults ought to be made the Surueiours of Highwaies, at the nert uarter Sessions after such default, Ibid. Highwaies

The offences against the statute concerning e deceitfull stretching, or tentering of Nor-ern Clothes, are inquirable and determi-ble before the Iustices of Peace at their uarter Sessions: and those defaults are to e presented by the Ouersers, at the nert uarter Session after such default made, 39 li. cap. 20. See 4. Iac. c. 2. Northerne Clothes.

The assignement and reuocation of the pen-ons for disabled Souldiers and Mariners, uſt be made by the more part of ỹ Iustices of e Peace at the Quarter Sessions: and they ay there set fine vpon the Treasurer, that all willingly refuse to pay any of the same ensions, 43. Eli. c. 3. 1. Iac. c. 25. Souldiers.

The assignement of such as shall keepe any Tauerne. Tauerne

Tauerne to vtter wine, ought by the statute 7 E. 6. ca. 5. to be made at the generall Sessions. But it is otherwise vsed, by speciall grant.

Beggers child. A Beggers child may at the generall Sessions bee bound to serue any Subiect of the Realme, being of honest calling, 14. Eli. ca. and 18. Eliz cap. 3.

Purueiors. The Dockets of Purueiors ought to be deliuered ouer to the Iustices of Peace at the next generall Sessions, 2 & 3 Phil. & Mar. cap. 6.

A decree may be made at the Quarter Sessions for the continuance of a Cottage that hath not foure acres of ground: and there may the Iustices Enquire, heare and determine of Cottages and Inmates, in offence of the statute, 31. Eliz. ca. 7.

Inmates.

Wages. The conuiction of a Clothier, or other, by his owne confession, or proofe by two lawfull witnesses, for not paying so great wages to their weauers, &c. as shall be set downe according to the true meaning of this Act, may be before the Iustices of peace in their Quarter Sessions: And the forfeiture of 10. s. by the statute giuen to the partie grieued, may be leuied by distresse, and sale of the offenders goods, by warrant from the said Iustices, 1 Iac. cap. 6.

Lawfull games. All offences against any statute, for not vsing any lawfull game, or vsing any vnlawfull games, or for not hauing Bowes & Arrowes

accor

ding to the Law, or for vſing any Art or
ſterie in which the partie hath not beene
ught vp according to the ſtatute thereof,
l be ſued, or otherwiſe inquired of, heard,
determined in the Quarter Seſſions of
peace, or Aſſiſes of the Shire where they
be committed, or in the Lęte, whithin the
ich they ſhall happen, 31. Eli. c. 5.

Act reade.

The Act of rebellious aſſemblies (or the ef-
thereof) ought to be openly reade at euery
uater Seſſions, 1. Mar. Par. 1. ca. 12. & 1. El.
.17.

Vndershe-
rifes, &c.

The Juſtices of peace haue power (in their
n Seſſions) to enquire, heare, & determine
efaults of Vndersherifes, Clerkes of She-
es or Vndersherifes, and of Bailifes, &c. in
taking the oaths appointed by the ſtatute,
.Eli. ca. 12.

Recuſants.

The abiuration of a ſedious Sectarie
ght to be made in the open Quarter Seſſi-
s of the Peace, and there to be entred of Re-
d: and the place certaine, and name of a Po-
h Recuſant (limited by this ſtatute vnto
lace) ought to be certified by the Miniſter
d Conſtable (that toke and entred it) to the
rt quarter Seſsions of the peace, and there be
tred of Record in the Rolles of the Seſſi-
ns by the Clerke of the Peace, 35. Eliz. ca.
& 2.

Recuſants.

The penalties forfeited by a conformed Re-
ſant, for not receiuing the ſacrament accor-
ding

ding to this statute, may be recouered by Act
on of debt, Bil, Plaint, or Information be
the Iustices of Peace at their Quarter Ses
ons, 3. Iac. c. 4.

Recusants. The monthly absence from Church of Po
pish Recusants, and their Children name
ir. yeares old & vpward, abiding with the
& their seruants names, ought by the Chur
wardens and Constables to be yerely pre
ted at the Quarter Sessions, and by ỹ Cle
of the Peace, or Towne Clerke, record
the said Sessions, 3. Iac. ca. 4.

Recusants. Iustices of Peace at any their Quarter Se
sions, haue power, to inquire, heare, and de
mine of all Recusants, and offences, as wel
not receiuing the Sacramẽt according to
Law, as for not repairing to Church ac
ding to former Lawes, in such maner as
stices of Assise, & Gaole deliuerie may do
at the Sessions (in which any Inditement
not repairing to Church, or receiuing the Sa
crament shall be taken) to make Proclamat
for rendring of the offendors body to the Sh
rife &c. before the nert Quarter Sessions:
which if the offendor shal not make appear
of Record, the same shall be a sufficient co
uiction of the offence whereof he was indic
3. Iac. ca. 4.

Repaire to Church.

The Oath of Allegeance. The refusing of the Oath of Allegeance
quired by two Iustices of Peace, & the tak
of the same Oath, & Oath of Supremacie

Quo

formed Recusant returning into Eng-
, are to be certified at the next Quarter
ion. And the said Oath of Allegeance
be required in the Quarter Sessions of
person as formerly refused the same: And
person, or any other whatsoeuer (other
Noble men and Noble women) refusing
aid Oath, being tendered in the said Ses-
, shall incur the daunger of Prœmunire,
ot women couert, who shall only be com-
ed by the Justices of peace in their quar-
Sessions to the common gaole, without
e or mainprise, till they will take the said
h, 3. Iac. cap. 4. 7. Iac. cap. 6.

Recusants.

offences done against this Act, other then
ason, shall be inquired, heard, and deter-
ed before the Justices of Peace in their
erall or Quarter Sessions, 3. Iac. cap. 4.

Reliques.

a Crucifixe, or other Relique of any price
ound in a Recusants lodging, or custodie,
n search to be made according to this Act,
same is to be defaced, at the generall or
arter Sessions, & so defaced, to be restored
he owner, 3. Iac. cap. 5.

Recusants Armour.

By warrant of foure Justices of Peace at
r generall Sessions, Recusants Armour,
npowder, & munition, shall be taken from
m, (other then necessary weapons to be al-
ed them by the said Just. for their defẽce:)
all be maintained at the costs of such Re-
ants, in such places as the said Just. at their
said

said Sessions shall appoint. And if they ha
refuse to declare what Armour they haue,
disturbe the deliuerie therof, the person of
ding shall forfeit the same Armour &c. and
imprisoned three Moneths, without Bail
Painprise, 3. Iac. cap. 5.

And inquire of others, whether the Pro
mation (set forth 4. H. 7. cap. 12.) be not y
be read at euery Quarter Sessions also:
some doe thinke, that it was to endure
time of that king onely.

The reason why some things be repeated.

These and some few others (which pe
uenture I do omit) haue reference (as yo
to any of the same generall Sessiõs, for so
ny of the which, as be inquirable (and
therefore to be giuen in charge) I may
either to haue committed Tautologie in
ting them twice, or (which is worse) to
written a repugnancie, in that I did first
uer them as common to all Sessions of
Peace, and doe now here restraine the
proper to the generall: But this is shortly
cause of my so doing: some men be of opin
that these statutes which be inquirable by
presse words at the Quarter Sessions
may neuertheless be inquired of at the
Sessions also. And their opinion seem
be backed by some words of ỹ reformed C
mission of the Peace, where power is gi
two Iustices of Peace, (the one being
Quorum) to inquire, heare, and deter

l offences, of which Iustices of the Peace fully may or ought to inquire: Neuerthe-, as the Commission there speaketh only nquirie, hearing, and determining, and of other Acts: so haue I hitherto doubted, ether that be true in all cases, or no: for as Iustices of Peace haue none other war-t to inquire of these matters, but onely by e statutes which doe appoint the inquirie e made at the Quarter Sessions: so they ght to pursue that warrant, if they will take n them to inquire, and haue any care that r doings may be warranted.

And I thinke it be no great doubt, but that he statutes do many times giue degrées of er, sometimes in greater measure, and netimes in lesse: so also the same statutes y restrain the authority of inquiry to some taine Sessions, & especially to the Quarter sions, in respect that they be both more o-, more commonly knowen before hand, & ter furnished with Iustices, and consequẽt-he méeter for administration of iustice, spe-lly in affaires of the weightier sort. And refore I haue in this part laboured, both to ifie their opinion in the one, and to serue ne owne fantasie in the other.

But now also let vs loke out some such ings as be left only to the Easter, Michael-as, or Midsomer Sessions. Easter Sessions.

The prices of vessels, for sope, ale, and bére, Prices of vessels.

Wéere, shall be set and proclaimed by the Justices of Peace at their Quarter Sessions after Easter, 8. Eliz. cap. cap. 9.

Wages of seruants.

The wages of seruants and labozers, to be rated by the Justices of Peace at Easter Quarter Sessions, oz within wéekes after Easter, where those Sessions be vsually holden in one place of the by all the Justices togeather: But where they are not so vsually holden (but in several places foz seuerall diuisions) there Justices of Peace oz moze part of them (resiant within such diuision) shall at the Quarter Sessions, oz at the time of the ster Sessions (as is afozesaid) rate and grosse in parchment vnder their handes seales, the wages foz labozers and seruants within that diuision, and the Sherife proclaime the same in place conuenient therefoze, 5. Elizab. cap. 4. & 39. Eliz. cap. 12. 1. Iacob. cap. 25. See 1. Iacob. cap. 6.

Poore.

And they must yearely in the same Sessions eramine the performance oz not performance of so much of the statute made foz the 14. Elizab. cap. 5. as is not altered, by 43. Eliz. cap. 2. 1. Iac. cap. 25.

Treasozers foz souldiers.

The account of the Treasozers foz disabled souldiers oz mariners, is to be made yearely at the Quarter Sessions after Easter, oz within x. daies after, 43. Eliz. cap. 3.

The

The Poore.

The Justices of Peace, at their generall Sessions next after Easter, shall rate euerie Parish to a weekly summe not aboue six pence, or vnder a halfe penie towards the reliefe of the Prisoners in the Kings Bench, Marshalsey, Hospitals, and Almes-houses in the Towne, and rate the summes to be sent to euery of these places: And elect a Treasurer for that purpose, and punish him that refuseth, 43. El. cap. 2.

Souldiers.

The Justices of Peace, in their generall Sessions after Easter, shall yerely rate euery Parish towards the relefe of Souldiers and Mariners, 43. Eliz. cap. 3.

Michaelmas Sessions.

At the Quarter Sessions to be holden after Michaelmas, the Justices of peace are to appoint searchers for brasse and pewter, 19. H. 7 c. 6. & 4. H. 8. c. 7.

Sherifes bookes, &c.

And at the generall Sessions after Michaelmas, two Justices of the peace ought to be appointed by the *Custos Rotulorum*, or (in his absence) by the eldest of the Quorum, for the ouerlight and controlement of the Sherifes bookes, &c. 11. H. 7. cap. 15.

In the

Particular Statutes.

In the number of particular Statutes, concerning the Quarter Sessions, these may haue place.

Norfolke. 33 H.6.cap.7. For Atturneis in Norfolke.

Seuerne. 26 H.8.c5. For passing ouer Seuerne.

Cheshire. 32 H.8.c.43. For Sessions in Cheshire.

Halifaxe. 2 & 3 P.& M. Of wools in Halifaxe.

Algate. 23 Eliz.c.12. For pauing without Algate.

Norfolke. 27 Eliz.c.24. 1. Iac.c.25. For the Sea-bank in Norfolke.

Nonesuch. 3 Iac. c. 19. For repairing the highway from Nonesuch to Talworth in Surrey.

Oxford. 3 Iac.ca.20. For cleering the passage by water to, and beyond the Citie of Oxford.

S. Giles in the fields. 3 Iac.ca.22. For pauing of Drurie lane, and S. Giles in the fields, in Middlesex.

Chepstow bridge. 3 Iac. cap. 23. For making vp of Chepstow bridge.

Vpton bridge 3 Iac.cap.24. For reedifying a Bridge ouer Seuerne, neere Vpton vpon Seuerne.

Of the Speciall Sessions of the Peace.

CAP. XX.

THe Speciall Sessions of the Peace, doe varie from the Generall, in this chiefely, that they be holden at other times, when it shall please the tices themselues, or any two of them, (the being of the Quorum) to appoint them. d this power they haue, not onely by the mmission, but also by the Statute 2. H. ap. 4. which alloweth them to doe it more n then the foure times, if neede doe so uire.

They be also (for the most part) summoned some speciall businesse, and not directed to generall seruice of the Commission: And there is no doubt, but that all the Articles hin the Commission of the Peace, are both uirable & determinable at any special Sess of the Peace.

what things be inquirable at the speciall Sessions of the Peace.

. Fitz. (as I haue alreadie noted) vseth ird difference betweene the generall and iall Sessions of the Peace: affirming that reas at the generall Sessions, the Justices eace, ought of dutie to giue in charge, all ters (within the Commission, or statutes) are to be determined before them: yet ne-

uertheleſſe at the ſpeciall Seſſions they are
libertie to giue in charge, either all, or any
them, as it ſhall ſeeme good vnto themſelues.

I will not gainſay, but that the Iuſtices
Peace may at a ſpeciall Seſſion of the peace
giue in charge all ſuch Statutes as do
vnto them a generall power of inquirie (
out vſing mentiõ of reſtraint to any Seſſ
as doth the Statute, 25. H. 8. c. 13. of Sh
yea, I will grant, that they may alſo at
ſpecial Seſſions of the peace, giue in charge
inquire vpon all ſuch other ſtatutes, as do
the word Seſſions indifferently, without
ding generall or ſpeciall: of which ſort
be a great many, as 5. E. 6. c. 4. of Fighting
Church or Churchyard, 14. H. 8. ca. 11.
H. 7. c. 11. of Hunting, 5. Eli. c. 13. of
Cloth, 2 & 3 Phil. & Mar. c. 7. of Faires
Markets, 5. Hen. 4. cap. 3. of Sea watch,
7. Edw. 6. cap. 5 of Wines, and ſundry
thers. But whether they may there alſo
quire of ſuch other ſtatutes, as do only
the inquirie to be made at the Quarter Se
ons, you haue heard my minde, and rea
reaſons in the Chapter laſt before.

The vſe of the ſpecial Seſſi-on.

Howſoeuer it be, there might be great
of ỹ ſpecial Seſſions of the peace, if they
now and then holden (betweene the Qua
Seſſions) to deliuer the Gaoles of vnruly
uants, petie thæues, and ſome others. For
is daily too wel proued, that many (being
thi

ther for Correction) doe sucke nothing but
ruption there: so as they bee worse when
y come forth, then they were when they
re first committed: which euill happeneth
long abode there in wicked companie:
ereas, if they had more speedy triall, both
y should be amended, & the Countrie lesse
rged by it.

Forreine Realmes & Countries do reape
fruit of speedy iustice: and if our Gaoles
gland were more often swept and empti-
I doubt not but that we also should find a
sible profit to arise thereby.

Peraduenture some man will say, that by
s meanes we shal draw vpon vs againe the
ne inconuenience of troubling the Coun-
e that happened by the six weeks Sessions,
ich were therefore abrogated by the Sta-
te 37. H. 8. cap. 7. But that is not to be fea-
: for whereas those Sessions were to be
lden in euery limit of the Shire, these may
kept onely in the Towne where the Gaole
ndeth: the which (since it is commonly po-
lous) shall be easily able to furnish this ser-
ce without calling any other remote part of
e Countrie vnto it.

The forme of the Precept for Summoning of a Speciall Session, may be thus.

MOilus Finch Miles, Iohannes Boys, & Henricus Finch armiger, *Iusticiary* (&c.) *alios &c. Dom. Regis nunc ad pacem in Comitatu Kanc' conseruand' assignati, Necnon ad diuersas Iomas &c. Vicecomiti Comitatus prædicti salutem. Ex parte dict. dom. Reg. præcipimus firmiter iniungentes, quod non omittas propter aliquam libertatem infra Hundreda de O. P. & Q. aut eorum aliquod in Comitatu prædicto, quin venire facias coram nobis apud R. infra Hundredū de O. prædecimo die Aug. proxim' futuro xxiiij. probos legales homines de eisdem Hundredis, ad inquirendum tunc ibi, pro dicto domino Rege, tàm super quibusdam Articulis in statuto in Parliamento Reg. Elizabethæ, anno regni sui quinto, tent', ad Artifices, Laboratores, Seruientes, & Apprenticios concernentibus, quàm super Articulis quibus in statuto in Parliamento dictæ nuper Reg. anno regni sui 39. tent', addit', Rogues, Vagabundos, validos Mendicantes, & alios pauperes tangentibus. Et clamari etiam facias in idoneis locis per Hundred prædicta, quod omnes qui versus prædictos Artifices, Laboratores, seruientes, apprenticios, rogues, vagabundos, validos mendicantes, & alios pauperes, eorum aliquos conqueri voluerint, sint tunc ibi coram nobis ad prosequendum versus eos parati. Sis ibi tunc, vel Vicecomes tuus, habens nomina

torum predictorum, & hoc nostrum breue. Testi-
s vobis prafatis M.F.I.B. & H.F. apud I. in
omitatu predict' vltimo die Martij, Anno regni
ti Domini nostri Iacobi Dei gratia Anglia, &c.
gis, &c.

f the Rewards and Punishments, due to Iustices of the Peace in respect of their Sessions.

CAP. XXI.

WEll and euill doing, doe from the first to the last, deserue reward and punishment: and therefore as wee closed vp the first part of s Treatise with them: So also shall this t Booke receiue the same conclusion.

Whilest it was at the libertie of the Iusti- of Peace to hold their Quarter Sessions hort time as they would, the Law did not ow them any wages for their paines. But en the statute (12.R.2.ca.10.) had bound m (vnder paine of punishment) to continue ir Sessions three daies together (if the af- es of their Office did so require) the same tute thought it meet also, to allow to euery hem foure shillings by the day, for the time

The wages of the Iustices of the Peace at the Quar- ter Sessions.

of their Sessions, to bee payed by the hands of the Sherife, out of the Fines and Amerciaments rysing of the same Sessions: and that the Lords of Franchises, should be contributories to those wages, after the proportion of their parts of the said Fines and Amerciaments.

But because it was verie Dilatorie for the Justices of Peace, to take those wages, at the hands of the sherife (as I haue already touched) vpon the Estreat sent out of the Exchequer: And for that also it grew in question whether such Lords as were named in the Cõmission of the Peace, should be partakers of the same Wages: the statute (14. R. 2. cap. 11.) did plainely prouide, that the wages of these Justices should be leuied & paid by the Shirife vpon Estreats doubled indented betweene the Sherife and them: And that no Duke, Earle, Baron, or Baronet (albeit they were Justices of the Peace, and did hold their Sessions with other eight Justices) should take any wages for their office in their bodies.

And hereof also M. Marr collecteth, that howsoeuer many Commissioners of the peace there shall be assembled at these Sessions, yet but eight of them shall receiue the wages: because (saith hee) that at such time as these Sessions were first appointed, the Law did take knowledge and make allowance onely of eight

Iustices

ices e no moze. And he also maketh it doubt-
ll, whether it be not in the power of the Ba-
ons of the Eschequer, to appoint which eight
when moe be assembled at the Sessions) shal
aue the Wages paied vnto them.

Foz the first point, it would bee somewhat
ard (indeed) to straine that statut so farre, as
giue wages thereby to so many Justices
be now at these daies in euerie Shire, and
ould bee pzesent at the Sessions: Yet the
atute of Labourers, 5. Eliz. cap. 4. that wil-
th the Justices of Peace in euerie Shire to
uide themselues, and to keepe two speciall
tings yerely foz the execution of that Law,
lloweth to as many of them as shall giue
eir attendance b. shillings a day foz three
aies together. But concerning the latter
oint, it seemeth by the latter Statute it selfe,
hat the Sherife shall first pay the wages, and
hen the Barons shall make the allowance
cozding to the Indenture: So that I see
o libertie of such nomination left vnto the
Barons.

I confesse, that it might breed both offence
gainst the Sherife, and a iealousie among the
ustices themselues, to haue one of them pze-
erred befoze an other in this paiment: and
herefoze I think it wisely done (as it is some-
where vsed) to bestow the whole allowance
pon the defraying of their common diet.

of their Session, to bee payed by the hands of the Sherife, out of the Fines and Amercia-ments rysing of the same Sessions: and that the Lords of Franchises, should be contribu-tories to those wages, after the proportion of their parts of the said Fines and Amercia-ments.

But because it was verie Dilatorie for the Justices of Peace, to take those wages, at the hands of the sherife (as I haue already tou-ched) vpon the Estreat sent out of the Exche-quer: And for that also it grew in question whether such Lords as were named in the Cõmission of the Peace, should be partakers of the same Wages: the statute (14. R. 2. cap. 11.) did plainely prouide, that the wages of these Justices should be leuied & paid by the Shirife vpon Estreats doubled indented be-twæne the Sherife and them: And that no Duke, Earle, Baron, or Baronet (albeit they were Justices of the Peace, and did hold their Sessions with other eight Justices) should take any wages for their office in their behalf.

And hereof also M. Marr collecteth, that how-euer many Commissioners of the peace there shall be assembled at these Sessions, yet only eight of them shall receiue the wages: because (saith hee) that at such time as these wages were first appointed, the Law did take know-ledge and make allowance onely of eight Jus-

stices e no moze. And he also maketh it doubtfull, whether it be not in the power of the Barons of the Eschequer, to appoint which eight (when moe be assembled at the Sessions) shal haue the Wages paied vnto them.

For the first point, it would bee somewhat hard (indeed) to straine that statut so farre, as to giue wages thereby to so many Iustices as be now at these daies in euerie Shire, and would bee present at the Sessions: Yet the statute of Labourers, 5. Eliz. cap. 4. that willeth the Iustices of Peace in euerie Shire to diuide themselues, and to keepe two speciall sittings yerely for the execution of that Law, alloweth to as many of them as shall giue their attendance v. shillings a day for three daies together. But concerning the latter point, it seemeth by the latter Statute it selfe, that the Sherife shall first pay the wages, and then the Barons shall make the allowance according to the Indenture: So that I see no libertie of such nomination left vnto the Barons.

I confesse, that it might breed both offence against the Sherife, and a iealousie among the Iustices themselues, to haue one of them preferred before an other in this paiment: and therefore I think it wisely done (as it is somewhere vsed) to bestow the whole allowance vpon the defraying of their common diet.

If the Fines & Amerciaments of the same Sessions (saith M. Marr.) will not fully a mount to the summe of the wages then due to the Justices, yet shall the wages be ratably paied out of them, so far as they will extend.

Furthermore, those two Justices of the Peace that doe in their Sessions call before them, any person suspected to offend the Statute of Deerehaies, Buckstals, and stalking, and doe examine him thereupon, and find him faultie therein, shall haue the tenth part of the forfeiture growing thereby, 19 Hen. 7. cap. 11.

Buckstals.

Punishment at the common Law.

Hitherto of Reward, henceforth of Punishment. It seemeth by the opinion of some Justices (2. R. 3. 10.) that if a Justice of the Peace do any thing of Record ignorantly, & for want of knowledge, that he shal not be punished for it. And this opinion of theirs is not new in this Realme, although it bee otherwise truly said, *Imperitia quoque culpæ adnumeratur*: for you may read in the old Laws of King Edgar (cap. 3.) and of King Canute (ca. 14.) that if a Judge had erred in his office, hee might there haue excused himselfe by Oath, That he did it not of euill minde, and that hee knew not how to doe better: which I speake not, to comfort men in careleſſe ignorance, but to shew rather that men may erre, & (erring by infirmity) they are not altogether vnworthy of pardon: and

hall to let the Iuſtices of peace ſee, that it y be a fault to erre by ignorance, and that reforе they ought to ſtay (where they maꝫe th *non liquet*) as their owne Commiſſion h direct them.

Now, on the other ſide, if a Iuſtice of the eace will craftily embeſill an Enditment, wilfully raze any part thereof, or maliciouſ- enroll, (or file) that for an Enditement, hich was neuer found by the Iurie: Then the reſolution of al the Iuſtices aſſembled fore the King in the Star Chamber 2. R. 3.) Commiſſion may goe out to enquire (by the ths of twelue men) of ſuch his miſdemenor, d if he be conuicted thereof, he deſerueth to e his Office, and to make fine to the King rording to the quantitie of his miſpriſion d offence, Ibidem fol. 10. And euen ſo may bee puniſhed (as this Booke leadeth me to inke) if he alter an enditement of Treſpas, to an enditemeut of Felonie, howſoeuer the inion (27. lib. Aſſiſ. pla. 18.) bee found a- inſt it.

A Iuſtice of the Peace may alſo be Endited y vnlawfull taking of money for doing his ffice, or of ſuch other falſitie, Fitz. Nat. Bre. 43. And if he cauſe a man to bee Endited at e Seſſions, by former cõſpiracie, or indirect actiſe, he is puniſhable for it, as a priuate an, 21. E. 4. 67.

But

But if (in ỹ handling of a cause at the ope Sessions) it happen him to speake against a offendor, somewhat excessively, yet he shal no be punished for it: *Iuris enim executio, non hab iniuriam:* Neuertheless, Iudges ought not t abuse their tongues by intemperance, b they must rather take great heed (as Cic. pr Font. said) *Quibus verbis vtantur, ne quid mo moderatè positum, ne quid, ab aliqua cupiditate p lapsum verbum esse videatur.*

punishments by statutes.

Thus farre of punishments by the comm Law, now to those by Statutes.

Alehouse. Fiue markes.

At the Iustices of peace, hauing taken a k cognisance for an Alehouse, dos not certifie at the next quarter Sessions of the Peace, h shall lose 5. markes, 5. E. 6. c. 25.

Highwaies. Fiue pounds.

That next Iustice of the Peace which do not certifie at the next general Sessions of t Peace, such presentments as the ouerseers o the highwaies haue before presented vnto hi shall lose fiue pound for euerie default, 2 & P. & M. c. 8. & 5. El. c. 13.

Seruants wages. Ten pounds.

If any Iustice of the peace (not being sicke nor hauing other lawfull excuse to be testifie vnder the oath of one assessed in the subsi booke at fiue pounds &c.) doe not assemble the Easter Sessions, to rate the wages of ser uants, &c. he shall lose ten pounds to the Kin 5. Eliz. cap. 4.

Gunnes.

The Iustice of the Peace which faileth t

record (at the next Quarter Sessions) the name of any person (authorized to shoot in a Gunne) that hath presented his name vnto him, shall lose twentie shillings, 2. E. 6. cap. 4. If that statute do so farre extend, whereof the words giue cause of doubt. Twentie shillings.

Those Iustices of Peace that neglect to certifie, at the next Generall or Quarter Sessions, the Oathes taken on submission of any person reconciled to the See of Rome, returning into this Realme, shall lose 40. l. 3. Iac. cap. 4. Conformed Recusant. Forty pounds.

And if the Proclamation (annexed to the statute, 4. Hen. 7.) ought now to bee read, then if it bee not read at each Quarter Sessions, euerie Iustice of the Peace there present, shall lose twentie shillings, 4. Hen. 7. cap. 12. Proclamation read. Twentie shillings.

If the Iustices of the peace, before whom any presentment shall be made at their Quarter Sessions, against any person for extolling the authority of the See of Rome, do not certifie the same into ỹ Kings Bench within forty daies after, if the Terme be then open, and if not, then at the first day of the next ful Term, they shall euery of them lose C. pounds for euerie fault, 5. El. cap. 1. Pope. An hundred pounds.

Those Iustices of the Peace, which do not certifie into the Eschequer, their examinations taken concerning the entring of plaints by Examinations. Forty shillings.

by the Sherifes, shall lose forty shillings, 11. H. 7. cap. 15.

Northerne Clothes.

And the Justices of Assise may enquire of, heare, and determine, the offences of any Justices of Peace, in not doing their duties for execution of the statute made against the deceitfull stretching of Northern clothes, 39. El. c. 20.

The Epi-

¶ The Epilogue.

THus haue I (by the fauor of God) brought this Treatiſe to an end: wherein if many things haue eſcaped me vnſeene, I do not greatly marualle, when I looke back & behold the varietie and multitude of the matter that I haue paſſed through: and it ſhall not bee hard for him that meeteth with ſuch Eſtraies to take and lodge them in their right Titles here. The Epilogue.

Againe, if I ſhall be thought to haue heaped vp too many conceits (borrowed out of M. Martowes reading) I make anſwere, that I haue omitted many, and haue made the beſt choiſe that I could.

If furthermore I ſhall ſeeme to thoſe that be maſters in Arte and Method, not to haue thorowly obſerued their rules, and ſpecially that καθ' αὐτὸ, because I do many times mingle aliena, things not preciſely pertaining to my matter

in

in hand: To them I say, that it is the reuiu
maner of teaching in our Law, To shew
things by their contraries and differents: *s*
seeing that great light commeth to the m
ter thereby, I may neither altogether condem
it as vnapt, nor reiect it as vnseruiceable.

Moreouer, if I haue bin deceiued in layi
downe ouer boldly mine owne opinion, I will
lesse gladly bee admonished of it, than rea
reforme my mistaking.

Finally whatsoeuer other thing is done am
I protest that it hath escaped of vnskill, a
not proceeded of wilfulnesse: and therefor
desire that I may be allowed the benefit of
that Pardon, which (as I told you
euen now) is in like case grant-
able to a Iustice of the
Peace.

FINIS.

BRITISH MUSEUM

A Table

A Table containing (verie neere) all the Imprinted Statutes, both generall, and particular, wherewith Iustices of the Peace haue in any sort to deale.

King.	Yeare.	Chap.	Content.
the 3.	9	25	Of Measures and weights.
			The assise of Breae and Ale.
			The iudgement of the pillory.
	51		The Ordinãce for measuring.
			Of Weights and measures.
Ed. the. 1	3	9	Of fresh suite after felons.
		10	Of Coroners.
		15	Of Bailement of felons.
		25	Against Maintenance.
		26	That Sherifes and other ministers shall take no rewards.
		27	Of fees for deliuering chapters.
	13	28	Of maintenance of quarrels.
		34	Of rauishing women.
		47	Of taking Salmons.
		49	Against Maintenance.
			The statute of Winchester.
		11	Against Maintenance.
	28		For measuring of Land.
	34		Definition of Champertors.
Ed. the 2	1		For breaking prisons.
	18		For purueyors.
			For Estreats of the Exchequer.
Ed. the 3.	1	14	For maintenance of quarrels.
		16	For keeping of the Peace.
		17	Inditements before Sherifes to be taken by Indenture.
	2	3	For comming before the Kings Iustices

King.	Yeare.	Chap.	Content.
			Iuſtices with force and arm
		6	A confirmation of the Statute o Wint.
	4	2	Of Wardens of the peace.
		4	That Purueiors pay in hand, an haue a warrant vnder th great or ſmall Seale.
		10	Againſt Sheriffes & Gaolers th will not receiue theeues, a ſuch other into their Gaol
	5	2	Againſt the Kings purueiors.
		10	Iurors that take money ſhall n more paſſe vpon Iuries.
		11	That Iuſt that are aſſigned t determin felonies haue pow to write to foreine counti
		14	Againſt Roberts men, & dra latches.
	14	10	Gaoles of the Counties to b annexed to the Sheriffes.
	18.Stat.2.	2	Iuſtices of peace made.
	20	4 & 5	For maintaining of quarrels.
	23	6	For victualers.
	25	1	For Purueiors.
	25.Stat.4	3	For foreſtaling of Wines.
	25.Stat.5	9	Auncel weight taken away.
		10	For weight and meaſuring.
		15	For takers of ſheepe.
	27.Stat.2	4	None going to the Staple, be diſturbed by the Kings ta kers.
		10	For Weights of the Staple.
	28	11	For ſafegard of Merchãts alien comming within this Realm
	34	1	For Iuſtices of peace.
		2	For Purueiors.
		5 & 6	Iuſtices of Peace to enquire o meaſures.
		22	For Hawkes found.

Againſt

King.	Yeare.	Chap.	Content.
	36	2.3.4.4.6.	Against Puruevors.
		12	For the Seſſions of the peace.
	37	19	For finding of Hawkes.
	42	9	For leuying of the greene waxe.
Rich. the 2.	1	3	All ſtatutes of purueyors confirmed.
		4	For maintenance of quarels.
		7	For giuing of Liueries.
	2	2	For foreſtalling of Wines.
	5	7	For entring into lands.
	7	8	For purueiors.
		13	For riding in harneſſe.
	12	3	A confirmation of all ſtatutes for victuallers.
		6	For bearing weapons.
		10	Iuſtices of peace to puniſh vagabonds, & for holding their Seſſions.
	13	4	Clarke of the market.
		7	Iuſtices of peace bee made anew.
		8	For price of vitailes.
		9	For weights.
		13	For hunters.
		19	For ſafegard of Fiſh.
		11	For aſſigning of Iuſt. of peace.
	14	2	For forcible entries.
	15	4	For meaſuring corne.
		3	The Clerke of the Market to haue ready his weights according to the ſtandard.
	16	4	For liueries of Companies.
	17	8	For Riots and vnlawfull aſſemblies.
		9	That Iuſtices of the peace ſhall be Conſeruators of the ſtatutes made for Riuers.

King.	Yeare.	Chap.	Content:
		10	Two men of Law to be assigned in the cõmission of the peace to deliuer Gaoles.
	20	1	For riding armed in the Realm.
		2	For wearing of Liueries.
H. the 4.	1	7	For giuing of Liueries.
		11	For extortion by Sherifes.
	2	12	For Purueyors.
		21	For giuing of Liueries.
	4	15	For Hostelers and Victualers.
	5	3	For watch vpon the Sea-coast.
		4	Multiplication made Felonie.
		5	For cutting tongues, & puncture out of eies.
		10	Iustices of peace to imprison men in the common Gaole.
	7	3	Of the manner of making of Estreates.
		7	For Arrowheads.
		14	For giuing of Liueries.
	13	7	Of Riots and Routs.
H. the 5.	1	10	For weights and measures of Corne.
	2	4	Of the Sessions of the peace.
		8	For reformatiõ of riots & routs.
		9	Processe against rioters that flie into woods.
	Stat. 2.	1	Of Iustices of Peace.
	8	3	For gilding and siluering.
	9. Stat. 2	8	Of false weights.
H. the 6.	2	11	For the measure of wines.
		14	For Goldsmithes selling worke of siluer.
	8	4	For giuing of Liueries.
		5	For weights.

ing.	Yeare.	Chap.	Content.
		9	For forcible entries.
		10	For proceſſe in Enditements & Appeales.
		14	For felons and murderers, that void themſelues into woods.
	11	6	For commiſſion of peace.
		8	For weights and meaſures.
		12	For waxe-chandlers.
	14	4	For Seſſions in Middleſex.
	18	11	A Iuſtice of peace to hauetwentie pound land.
		19	For Souldiours departing without licence.
	20	8	For reſiſtance of Purueyors.
	23	1.& 2	Againſt Purueyors.
		10	For Extortion of Sherifes.
		11	For leuying Knights wages for the parliament.
		13	Proclaiming the ſtatutes for Victuallers.
	31	3	Of Attachments in the Courts of the Marches.
	33	2	A repeale of an Act for Outlagaries in Lancaſter.
		7	For Atturnies in Norff. & Suff.
the 4.	1	2	For Inditements & preſentments in Sherifes Turnes & Leetes.
	8	2	For Liueries of companies.
	12	2	For Bowſtaues.
		9	For Eſcheators.
	17	4	For making of Tile.
the 3.	1	3	For enquirie of eſcapes: for ſetting of ſuſpectes of felonie to baile.
		11	For Bowſtaues.
		12	For the meaſure of wine & oile.

King.	Yeare.	Chap.	Content.
H. the 7.	1	7	Against hunters.
	3	1	Giuing of liueries, & certifying of Recognisances of Coroners
		2	Taking maidens, widowes, & wiues against their wils, made felonie.
	7	4	For weights and measures.
	11	4	One weight and measure to be vsed thorow the Realme.
		9	For the inhabitants of north & south Tindale.
		15	Against vntrue demeaning of Sherifes and their officers holding their Counties.
		17	Against destroying of pheasants and partridges with vnlawful engins, and for hawkes.
	12		
	19	5	For weights and measures.
		6	For pewterers and brasiers.
		11	For keeping of Deere haies & Buckstals.
		13	For punishment of Riots.
H. the 8.	1	7	Concerning the Office of Coroners.
	3	12	For reformation of Impanels by the king.
	4	7	For pewterers and true weights and beames.
	6	6	For remitting prisoners vnto the place where the crime was committed.
	14.15.	6	For highwaies in the Weales of Kent.
		10	For hunting the Hart.
	21	5	Fees for Testament, & letters of administration.
		7	Against seruāts imbesiling their maisters

		masters goods.
22	5	For repairing of Bridges in high waies.
	10	Concerning Egyptians.
	11	For Powdike in Marshland.
	14	How persons committing petite treason shall abiure.
23	2	Where, and after what manner the Gaoles within England shall be made.
	4	That no Brewers make Vesse'ls, and the contentes of Barrels.
24	7	Against killing of Calues.
	9	Against killing of Weanlings.
	10	For crow-nets.
25	6	For punishment of Buggerie.
	11	To auoyd destruction of Wildfowle.
	13	What sheepe a man may keepe.
26	5	For not conueying any persons goods or cattels ouer the water of Seuerne, after Sunne set vntill Sunne rising.
	6	For Wales.
	7	For amending highwaies in Sussex.
27	5	Iustices of peace in Chester.
	10	For inrolment of deeds.
	20	An order for Tithes.
	24	For recontinuing of certaine Liberties taken from the Crowne.
	3	Of Abiuration.
32	7	For true paiment of Tithes and Offerings.
	9	Against maintenance &c & vnlawfull buying of Titles.

King.	Yeare.	Chap.	Content.
		13	For breede of Horſes of high ſtature.
		31	For baking of horſe-bread.
		43	Seſſions in Cheſter.
	33	1	Concerning counterfait lea or tokens.
		5	For keeping of great Horſes.
		6	For Croſſebowes & Handg
		9	For maintenance of Artil and debarring of vnla games.
		10	For the execution of cert ſtatutes.
		17	For confirmation and cont ance of certaine Acte Wales.
	34.35.	14	For certificate of conuicts m made into the Kings ben
	35	11	For paiment of knights & geſſes wages of the parli in Wales.
		17	For the preſeruation of woo
	37	1	Of the Cuſtos Rotulorum, Clarkes of the peace.
		7	For abrogation of ſixe we Seſſ.
		8	That Enditements lacking *armis* ſhalbe good enough
		9	Againſt vſurie.
Ed. the 6.		1	Againſt ſuch as ſpeak again Sacrament of the body blood of Ieſus Chriſt, an the receipt thereof in kinds.
		5	That no horſes be coueyed of England without licen
		7	For continuãce of Proce withſtan

King.	Yeare.	Chap.	Content.
			withstanding new commission of the Peace.
		21	Of poysoning.
	2.3	2	For true seruice in captains and Soldiers.
		14	Against shooting of Hail shot.
		15	For vitailers and handy-craftsmen.
		24	For triall of murders in seueral Counties.
	3.4	1	Of the Custos Rotulorum.
		2	For the true making of wollen clothes.
	5.6	21	Of retailing butter and cheese.
		4	Against fighting & quarrelling in Churches.
		6	For true making of wollen cloth
		14	Against regrators, forestallers, and engrossers.
		15	Against regrators of tanned leather.
		24	For making of hats at Norwich and in Norfolke.
		25	That alehousekeepers be bound by Recognisance.
	7	5	To auoid great prices of wines.
		7	For the assise of fuel.
arie.	1	8	That Sherifs shal not be Iustices of peace during their office.
		9	For the incorporation of Phisitions in London.
		12	Against vnlawfull assemblies.
y. & Ma.	1.2	4	For punishment of Ægiptians.
		5	For restraint of corne, &c. ouer the Sea.

King.	Yeare.	Chap.	Content:
		13	An order for Bailement of prisoners.
	2.3o.	3	For keeping of milch kine and rearing of calues.
		6	Against excessiue taking of pruueyors.
		7	For buying of stollen horses.
		8	For amending of high waies.
		10	For examination of prisoners suspected of mausslaughter or felonie.
		13	For Wools in Halifax.
		15	That purueyors shall not take victuall within fiue miles of Cambridge or Oxford.
		16	For watermen vpon Thames.
		18	For Commissions of peace, and Gaole deliuery in townes corporate not being counties.
		19	For Powdike in Marshland.
	4.5.	3	For taking of Musters.
Elizabeth.	1	1	The restoring to the Crown the ancient Iurisdiction.
		2	For vniformitie of praier, & administration of the Sacraments.
			Against deceitfull vsing of linnen cloth.
		16	Against rebellious assemblies.
		17	For preseruation of Spawn and frie of fish.
		18	For continuãce of certain statutes.
	5	1	For the assurance of the K. power ouer all estates.
		4	Orders for artificers, seruants, & labourers.
		5	For mantenance of the Nauie.
		9	For punishment of periurie.

King.	Yeare.	Chap.	Content.
		10	For ſeruants embeſeling their maſters goods.
		12	For badgers of corne, and Drouers of cattel to be licenced.
		13	For amending of high waies.
		15	Againſt fond and fantaſticall propheſies.
		17	For puniſhent of Buggerie.
		19	For repeale of a Stat. for cōueiing of horſes out of the realm.
		20	For puniſhment of Vagabonds, faining themſelues Ægiptiās
		21	For puniſhment of vnlawful taking of fiſh.
		24	For repairing of Gaoles.
	8	3	Againſt carrying of ſheepe ouer the Sea aliue.
		8	For repeale of a branch of a ſtat for the ſtature of horſes in the Ile of Ely.
		9	For repeal of a branch of a ſtat. for the prices of barrels, and kilderkins.
		10	For Bowyers and the price of Bowes.
	13	2	For bringing in, and putting in execution Bulles from Rome.
		8	Againſt Vſurie.
		9	For commiſſion of Sewers.
		11	For maintenance of Nauigatiō.
		14	For bringing bowſtaues into the Realme.
		21	That purueyors may take corne and victuals within fiue miles of Cambridge and Oxford, in certaine caſes.
		23	For pauing a ſtreet without Algate.

For

King.	Yeare.	Chap.	Content.
		25	For continuance of certain statutes.
	14	5	For punishment of vagabonds, and relieſe of the poore.
		11	For continuation, explanation, &c. of diuers ſtatutes.
	18	3	For ſetting the poore people on worke.
	10?	5	To redreſſe diſcorder in cómon informers vpon penal lawes.
		7	For taking away Clergy from the offendors in Rape and Burghlarie, and an order for deliuering Clerkes conuict without purgation
		9	For mending highwaies.
		20	For repairing bridges and highwaies neere Oxford.
	23	1	For due obedience vnto the King.
		9	Againſt logwood or blockwood.
		10	For Pheſants and Partriges,
		11	For Cardiffe bridge.
		12	For pauing without Algate.
	27	2	Againſt Ieſuits, and Seminarie Prieſts, &c.
		7	For leuying iſſues loſt by Iurors
		10	Touching informers.
		11	Againſt eating of fleſh vpon daies forbidden.
		12	For giuing the oth to Vnderſheriffes, &c.
		13	For the following of Huy & cry.
		14	For the true making of Malt.
		22	Touching the Haué of Chicheſter.
		24	For the Sea banks in Norffolke
		26	For the high way to the Ile of Shepey.

King.	Yeare.	Chap.	Content.
			Shepey.
	31	4	Againſt imbeſeling the habiliments of warre.
		7	Touching Cotages & inmates.
		11	Touching reſtitution of poſſeſſion.
		12	Touching the ſale of horſes in open market.
	35	1.2.	Of ſeditious Sectaries, & Popiſh Recuſants.
	39	2	Of husbandrie and tillage.
		3	Of the impotent & able poore.
		4	Of Rogues & vagrant perſons.
		11	Touching Logwood.
		16	For reſtraint of malting.
		19	Of Highwayes in the Weald.
		20	Againſt deceit in Northern clothes.
	43	2	Poore.
		3	Souldiers and mariners.
		7	Petite Treſpaſſers.
James.	1	6	Rating of wages.
		7	Puniſhment of Rogues and Vagabonds.
		8	Stabbing.
		9	Reſtraining inordinate tipling.
		11	Marrying in the life of a former husband or wife.
		12	Againſt Coniuration.
		22	For Tanners, Shoomakers, &c. vſing the cutting of Leather.
		27	Againſt ſhooting in gunnes, and for preſeruation of Pheſants, Partridges, and hares.
		29	For reſtraint of eating fleſh in Lent, and on fiſh dayes.
		31	For reliefe of perſons infected with the plague.
	3	4	Againſt popiſh Recuſants.

To

King.	Yeare.	Chap.	Content.
		5	To preuent dangers which may grow by Popish Recusants.
		10	Of leuying charges to conuey malefactors to prison.
		12	For preseruation of Seafish.
		13	Against stealing Deere & conies
		19	Repairing Nonesuch highway
		20	For cleering the passage by water from London to Oxford.
		22	Pauing Drury lane.
		23	For repairing of Chepstowe bridge.
		24	For reedifying of a bridge at Vpton vpon Seuerne.
	4	2	For true making of wollen cloth
		4	Against vtterance of Beere and Ale to Tiplers vnlicenced.
		5	For repressing of Drũkennesse.
	7	3	For the true imploymẽt of money giuen for binding out of Apprentices.
		4	Against Rogues & Vagabonds.
		5	For ease in pleading against cõtentious suites prosecuted against Iustices of peace, and other officers.
		6	For administring the oth of Allegeance, & Reformation of maried women Recusants.
		7	Concerning clothing.
		10	For reformation of Alehouse-keepers.
		11	Against vntimely hawking.
		13	Against stealing of Deere.
		20	Marsh grounds in Norfolke and Suffolke.
		23	Subsidie, & Fifteenth & Tenth.

Now

Now follow ſundry Enditements, Preſentments, and Proceſſes.

The Stile of the Seſſions.

Generalis Seſſio pacis, tenta apud Maidſtone, *in comitatu prædict. primo die Octobris, Anno regni ſereniſſimi domini noſtri Iacobi Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, fidei defenſoris &c. 2. & Scociæ 38. Coram* T.W. *armig. & ſocijs ſuis* Cuſtodibus *pacis dicti Domini reg. ac* Iuſticiarijs *ſuis ad diuerſa felonias, tranſgreſſiones & alia malefacta in dicto comitatu perpetrata audiendum & terminandum aſſignat'.*

Enditements concerning Eccleſiaſtticall cauſes.

For extolling the authoritie of the Pope.

IVratores præſentant pro Domino Rege, quod I. S. de C. in comitatu prædict. Clericus, xx. die menſis Aprilis anno regni ſereniſſimi domini noſtri Iacobi Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defenſoris, &c. 2. & Scotiæ 37. apud D. in comitatu prædict. ſcienter, conſideratè, malitioſè & directè, palam in preſentia multorum dict. domini reg. noſtri nunc ſubditorum, affirmauit, & defendit authoritatem Papæ Romani Eccleſiaſticam in hoc regno Angliæ

liæ præantea vsurpatam, hijs expreſſis verbis Anglicanis ſequentibus, viz. I ſweare by the bleſſed Maſter, I will anow, that our holy father the Pope of Rome, is the ſupreame head of the Church of England, in magnam derogationem regiæ authoritatis, & prerogatiuæ dicti domini Regis noſtri, ac contra coronam & dignitatem ſuam, necnon contra formam diuerſorum ſtatutorum, in huiuſmodi caſu editorum & prouiſorum. Et quod A.B de D. prædicta in comitatu præd' Swarchandler, ſciens ipſum I.S. dicta verba loquutum eſſe, ac dict. dicti Papæ authoritatem modo & forma vt præfertur, defendiſſe, ipſum I.S. apud D prædictum poſtea, ſcilicet 22. die dicti menſis Aprilis anno ſupradicto conſolatus eſt & comfortauit, ex induſtria & ex propoſito, & ad eam intentionem vt idem A. B. promoueret, & efferret præfatam dicti Papę authoritatem vſurpatam, in perniciſſimum aliorum exemplum, ac contra coronam & dignitatem dicti domini Regis noſtri nunc, ac etiam contra formam diuerſorum ſtatutorum in eiuſmodi caſu prouiſorum & editorum.

For abſoluing from the Kings obedience.

INquiratur pro domino rege, Si A. B. de C. in dicto comitatu Clericus, ſexto die menſis Maij, anno regni domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, fidei defenſoris, &c. 3 & Scotiæ 38. apud C. præfatam in comitatu prædicto, voluntariè & proditoriè conatus eſt, & practicauit abſoluere, perſuadere, & ſeducere quandam Iohannã W. de C. prædicta, in comitatu prædicto viduam, a naturali obedientia, & ſubiectione ſua, quam eadem Iohanna erga dictum dominum noſtrum regem gerere debet, ad obediendum pretenſæ authoritati ſedis Romanæ, tunc & ibidem proditoriè præ ſe ferens & aſſerens ſe habere poteſtatem & facultatem id faciendi, & tunc & ibidem proditorè dicens eidem Iohannæ hijs Anglicis verbis ſequentibus, Mother Ioane, you ſhall haue a blacke ſoule, I tell

pay

if you do not the sooner forsake the King (innuendo dictum dominum nostr. reg. nunc) and his heresies, yeeld your selfe to the obedience of our mother Church the holie See of Rome: ac contra pacem dicti mini nostri Regis coronam & regalem dignitatem su-, ac contra formam statuti iu Parliamento dom. Eliz. per Reg. Angliæ tento apud Westmonasterium in co-atu Midlesexiæ, ann. regni sui vicesimo tertio in hu-modi casu prouisi ac editi.

For a Iesuite and his Receyuers:

quiratur pro domino Rege, Si E.C. nuper de S. in co-itatu prædicto Clericus, natus apud S. pręd. in Comi-u prædicto, atque infra annum iam proximé præteri-factus & professus Iesuita per authoritatem a sede mana deriuatam, proditoriè, apud S. prædict. in co-atu prædicto, sexto die Iulij, anno regni dicti domini tri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ gis fidei defensoris, &c. 3. & Scotiæ 38. a partibus trans-inis applicuit, & dicto sexto die anno supradicto, & nnullis alijs diebus tunc proxime sequentibus apud prædictam in comitatu prædict, proditorie moram fe-ac remansit: contra formam cuiusdam statuti in par-mento dominæ Eliz. nuper Reg. angliæ tento apud stmonasterium in comit. Midlesexiæ anno reg. sui cesimo septimo in huiusmodi casu prouisi & editi, ac ntra pacem dicti domini Regis, coronam & dignitatē s. Et si W.B. de S. prædict. in dicto comitat. mercator, ent voluntariè, & felonicè, postea, scilicet dicto sexto dicti mensis Iulij anno supradicto, prædict. E.C. apud prædictam in comitatu prædicto receptauit & comfor-uit, dicto W.B. (ad tunc & ibidem ad largum & extra sonam existentem, ac præfat. E.C. huiusmodi Iesuitam e, tunc & ibidem) sciente & cognoscente: Contra for-am statuti prædicti, ac contra pacem, coronam, & dig-tatem dicti domini reg. nostri.

For

For saying and hearing of Masse.

IVratores prę ſentant pro dom' Rege quod Io. R. nu
de C. in comitatu predict. Clericus, 8. die Aprilis,
no regni dict. dom noſtri Iacobi, Dei gratia Angl. Fr
ciæ, & Hiberniæ Regis, fidei defenſoris &c. 3. & Sco
38. apud C. prædictam in comitatu prædict. volun
dixit & celebrauit vnam miſſam, contra formam
dam ſtatuti in parliamento domin. Elizab. nuper
Angliæ tento apud Weſtmonaſterium in com. Mid
ſexiæ, anno regni ſui viceſimo tertio in hoc caſu pr
& editi, & contra pacem dicti domini regis, cor
& dignitatem ſuam: & quod Maria B. de C. prædict
comitatu prædicto vidua, dicto 8. die Aprilis anno
pradicto apud C. prædict. in com. prædicto interfuit
ſens tempore dictæ celebrationis miſſæ prædictæ,
andem miſſam (ſic vt præfertur dictam) adtunc &
voluntarie audiuit contra formam ſtatuti prædicti,
contra pacem, coronam & digditatem dicti domini
gis noſtri.

For being abſent from the Church.

IVratores pro Domino Rege ſuper Sacramentum
preſentant, quod A.B. nuper de B. in comitat. præd
Armiger, qui x. die Iulij, anno regni Domini noſtri
cobi Dei gratia Angliæ, Franciæ, & Hiberniæ, Re
fidei defenſoris, &c. 3. & Scotiæ 38. fuit ætatis 16. an
tum & vltra, non acceſſit (Anglicè did not repair)
eccleſiam ſuam parochialem de D. prædicta, nec ad
quam eccleſiam, capellam, aut vſualem locum
munis præcationis, & ibidem moratus fuit tem
communis præcationis, ad aliquod tempus infra ſex
ſes, tunc proxim. ſequentes, ſed abſtinuit ab eiſdem
glicé hath forborne the ſame) per ſpatium predicto
ſex menſium contra formã cuiuſdam ſtatuti apud W
monaſt. in comitat. Midleſex. anno regni dom. Eliz.
per reg. Angliæ primo, pro vniformitat. communis
cationis editi & prouiſi, ac contra formam ſtatuti

ni dictæ nuper reg. viceſimo tertio in huiuſmodi caſu
ti & prouiſi, ac in contemptum dict. dom. reg. nunc. &
ra coronam & dignitatem ſuas, &c.

ainſt a Schoolmaſter not licenced, nor reſorting to the Church, and againſt his maintainers.

ratores preſentant pro Domino Rege, quod K. M. de
in dict. comitatu Scholæ magiſter á ſecundo die Sep-
bris, Anno regni domini noſtri Iacobi, Dei gratia
gliæ, Franciæ, & Hiberniæ Reg. fidei defenſoris, &c.
Scotiæ 39. vſq; nunc in domo manſionali cuiuſdam
de I. prędicta in comitat. prędict. viduę, auſus eſt, et
ſumpſit erudire, & docere pueros dictæ E. A. ibidem,
idem K. M. durante dicto tempore non acceſſit ner
rtauit ad Eccleſiam parochialem de I. Prędict. in co-
at. prædicto, nec ad vllam aliam capellam, aut vſua-
locum communium precationum ſed ſe penitus per
m tempus prædictum abinde abſentauit nullam ha-
s legitimam aut rationalem dictę ſuæ abſentiæ ex-
tionem, & cum idem K. M. non eſt per Epiſcopum
eſis loci illius in quo ſita eſt prędicta Eccleſia paro-
lis de I. prædicta, aut per eius loci ordinarium, licen-
us, aut allocatus ad erudiendum & docendum: In
num dicti domini noſtri regis contemptū, ac contra
am ſtatuti in Parliamento dom. Eliz. nuper Reg.
liæ (tento apud Weſtmonaſterium in comit. Mid-
xiæ anno reg. ſui viceſimo tertio) in huiuſmodi
prouiſi & editi. Et quod predict. E. A. voluntariè in
o ſua prædicta per totum tempus prædict. cuſtodiuit
anutenuit præfat. K M. modo & forma prędict. eru-
tem & docentem ſciens ipſum K. M. modo & forma
lict. ſe abſentaſſe, In contemptum dict. dom. regis, ac
ra formam ſtatuti prædicti.

For Periurie in a Depoſition.

atores præſentant pro Domino Rege, quod E. F.
G. in comitatu prædicto Taillor, 24. die Iulij, ann.

regni domini noſtri Iacobi, Dei gratia Angliæ, Franciæ
& Hiberniæ Regis fidei defenſoris, &c. & Scotiæ
apud M. in comitatu prædicto coram A. B. C.D. &
F. Armigeris Commiſſionarijs (virtute Breuis
domini Regis de Commiſſione, prędictis A. B. C.D.
E. F. directi & extra curiam Wardorum & Liber
onum dicti Domini Regis, apud Weſtminſter in
tatu Middleſexiæ, præantea emanantis) pro exam
tione quorumcunque teſtium tam ex parte cuiuſ
L. de M. prædicta in comitat. prædict. tenentur
tis quam ex parte H.M. de N. in dict. comitat.
defendentis, in quadam cauſa (ſiue materia) inter
ſos I. L. & H.M. tunc in dicta Curia Wardorum &
rationum controuerſa, & ibidem dependente in
antia pro titulo vnius meſſuagij cum pertinentijs
prędicta in dicto comitatu perſonaliter conſtitutus
tunc & ibidem exiſtens teſtis productus per prædi
I. L. ad teſtificandum & deponendum in cauſa
ex parte ipſius I. L. & iuratus per Commiſſionarios
dictos, ad veritatem dicendam ſuper articulis
gatorijs ei per dictos Commiſſionarios, ad tunc &
dem miniſtrandis, ſeptimo articulo interrogatorio
ad tunc & ibidem per dictos commiſſionarios
te prædicti I. L. miniſtrato dixit, & ſuper Sacra
tum ſuum predict. affirmauit & depoſuit, prout in
Anglicis verbis immediate ſequitur viz. To the 7.
terrogatorie hee ſaith by vertue of his ſaid oath,
the ſaid meſſuage was neuer occupied by the ſaid
M. the defendant, prout per dictam depoſitionem
dict. E.F. inter alia per præfatos Commiſſionarios
ctam curiam Wardorum & Liberationum certific
& miſſam, ac ibidem de recordo adhuc remanen
plenè apparet: vbi reuera & facto dictum meſſuag
diu occupatum fuit per prænominatum H.M. defen
tem. Et ſic idem E. F. dicto vicesimo quarto die
anno ſupradicto apud M. prędictam in dicto comi
coram prænominatis A B. C.D. & E. F. (commiſſion
dict. domini regis ſic vt præfertur exiſtentibus) vol
rie & corrupte, periurium commiſit voluntarium &

im, contra formam diuersorum statutorum in huiusmodi casu prouisorum & editorum.

For killing a man by witchcraft.

tores præsentant, pro domino rege, quod Sara B. C. in comitatu prædicto vidua, vicesimo die Augusti anno regni domini nostri Iacobi Dei gratia Angliæ, iæ, & Hyberniæ Regis, fidei defensoris, &c. 1. & 38. ac diuersis aliis diebus post dict. 10. diem quasrtes detestandas, Anglicè vocatas witchcraft and rie, nequiter & felonicè practicauit, & exercuit a-, prædict. in comitatu prædicto, in, super & contra am Iohannem N. de C. prædict. in dicto comitatu rter, per quas quidem artes dict. I. N. à prædict. 20. gusti, anno supradicto vsque 14. diem præd. mengusti, anno supradicto periculosissime ac mortalirotabat & languebat, Ac eodem 24. die Augusti, supradicto idem I. N. per artes prędictas apud C. t in dicto comitatu obijt: & sic Iuratores prædicti ntant quod eadem Sara ipsum Iohannem N. apud dictam modo & forma supradictis, ex malitia sua gitata, voluntariè, diabolicè, nequitèr, & felonicè tes prædictas occidit ac interfecit, contra pacem omini regis nostri, ac contra formã statuti in parto dict. dom. Reg. nostri (tento apud West. in comesexiæ, anno reg. sui prædicti 1.) in huiusmodi casu ac editi.

For bewitching a Horse.

iratur pro domino Rege, si Sara B. de C. in dicto tatu vidua 20. die Augusti, Anno regni dicti doostri Iacobi, Dei gratia Angliæ, Franciæ & Hy- Regis, fidei defensoris, &c. 1. & Scotię 38. quasrtes nequissimas (Anglice vocat. Inchantments armes) apud C. prędict. in comitatu prædicto

malitios è & diabolicè, in, ſuper, & contra quend
quum, coloris albi, pretij quatuor libr. de bonis &
lis cuiuſdam I S de C. prædicta, in dicto comitat.
roſi exiſtentem exercuit, & practicauit. Per quod
equus dict. I. S 20. die prędict apud C. prædict. com
impeioratus eſt, & vaſtatus: contra pacem dicti d
reg. ac contra formam ſtatuti in huiuſmodi caſu
ac editi.

For fighting in the Churchyard.

INquiratur pro domido Rege, Si G.F. de L. in
comitatu generoſus, octauo die Septemb. anno
dicti domini noſtri Iacobi, Dei gratia Angliæ, Fra
& Hyberniæ Regis, fidei defenſoris, &c. 3. & Scot
in cemiterio eccl. parochialis de L. prædict in dict
malitiosè extraxit pugionem ſuum in quendam I.S.
L. prædict. Yeoman, ea intentione ad percutiend
dict. I. S. cum dicto pugione, contra pacem dicti D
regis noſtri nunc, ac contra formam ſtatuti in p
mento dom Edw. nuper Reg. Angliæ ſexti (tenno
Weſtmonaſterium in comitat. Middleſexiæ anno
dicti nuper domini reg. 5.) in huiuſmodi caſu pro
editi.

For a Burglarie in a Church.

IVratores præſentant pro domino rege, quod A
C. in comitatu prædicto Sailer, primo die Sep
bris, anno regni dicti domini noſtri Iacobi, De
tia Angliæ, Franciæ, & Hyberniæ regis, fidei defen
&c. 3. & Scotiæ 39. vi & armis eccleſiam parochi
de C. prædicta in dicto comitatu, feloniçè & bur
ter fregit & intrauit noctanter, viz. inter horas d
& vndecimam poſt meridiem eiuſdem diei, ac
calicem argenteum (Anglice vocat. a Comm
Cup) ad valentiam 60. ſolidorum, de bonis & ca
parochianorum de C. prædicta adtunc exiſtentem

ecclesia, & tunc ibidem inuentum, felonice cepit, rtault, contra pacé dict. dom. reg. nostri nunc co- & dignitatem suam.

nditements and Presentments, concerning Lay causes.

or petite treason in a seruant, and felonie in the procurers thereof.

ores pro Dom rege præsentant, quod A.B. de C. mitatu prædicto Glouer, nuper seruiens B D. de dicta, in dict. com. Glouer, decimo die Septem- nno regni dicti Domini nostri Iacobi, Dei gratia æ, Franciæ, & Hyberniæ Reg. fidei defensoris, &c. cotiæ 39. in domo mansionali prædict. B. D. apud dict. in com. prædict. vi & armis, videlicet cum gla- pugione districtis ad valentiam 10. solidorum idem A. B. tunc & ibidem in manibus suis tenu- prænominatum B. D. tunc magistrum suum & ibidem in pace Dei & dicti Domini Regis ex- em, voluntarie & ex malitia sua præcogitata in- fecit, & eundem B. D. tum magistrum suum, ad ibidem cum dicto gladio felonice & proditorie su- aput suum fortiter & valide percussit, ita quod ictu, caput ipsius B.D. tunc magistri sui tunc ibi- n duas partes scidit, dans ei plagam mortalem, vn- rpus dict. B.D. immeditate ibidem ad terram ceci- & dictus B. D. instanter ibidem de plaga prædict. uus est. Et sic præfat. A.B apud C. prędict. ex mali- a præcogitata, eundem B.D. magistrum suum prę- modo & forma prædictis, voluntarie, nequiter, felo- & proditorie interfecit, contra pacem dict. do.no- g. nunc coronam & dignitatem suas. Et quod qui- L.S. de C prædicta in dict. com. Glouer, ante prodi- em prædict. (per præfat. A.B. sic vt præfertur volun- perpetratam & commiss.) viz. sexto die Sept. an. su- icto, eundem A.B. apud C. præd. in com. prędict. ad

proditionē præd. in forma præd. perpetrandā & cō
tendam, felonice conſuluit, excitauit, & procurauit, c
tra pacem dicti dom. noſtri reg. nunc, ac contra coron
& dignitatem ſuam.

*For murder of a baſtard childe, againſt the mo
and midwife (as principals) & againſt ther
ted father as acceſſarie before, and againſ
thers as acceſſaries after.*

IVratores pro domino rege præſentant, quod H.
nuper de K. in comit. præd. vidua, grauida exiſtens
quādam infante viua, 24. die Maij, anno regni
mini noſtri Iacobi, Dei gratia Angliæ, Franciæ &
bernię Regis, fidei defenſoris &c. 2. & Scotiæ, 37.
K prædict. in com. prædicto, Dei prouidentia par
peperit vnam prolem femellam viuam: poſteaque
dam Iana S. nuper de W. in dicto comitat. vidua, p
prædictam in comitat. prædict. vi & armis, ex ma
præcogitata (dicto 24 die Maij ann. ſupradicto,
ram 11. ante meridiem eiuſdem diei) per conſilium
datum, & procurationem prędictę H. M. ac in præ
ipſius H. M. in prędict prolem femellam viuam in
fecit, & cum quodam cultello (ad valentiam vnius
rij) quem eadem Iana tunc in manu ſua dext
nuit, guttur ipſius prolis femellæ adtunc & ibidem
nice ſcidit, dans eidem proli femellæ quandam p
mortalem in gutture ſuo prædicto, de qua quidem
mortali proles femella præd. apud C. præd. in com.
dict. adtunc & ibidem inſtanter obijt. Et quod præd
M. adtunc & ibidem felonice fuit præſens, comfor
& auxilians ad prędict. prolem femellam in forma
dict. interficiendam. Et ſic prætata H. M. & Iana p
prolem femellam ex malitia ſua præcogitata, felo
voluntarie interfecerunt, & murdrauerunt, con
cem dict Domini Reg. coronam & dignitatem ſu
inſuper Iuratores prædicti præſentant pro dicto

ege qnod Gregorius P. nuper de K prædict. in dicto co-
itatu **Yeoman**, 19. die Maij anno regni dicti domini
g. ſecundo, ac aduerſis alijs diebus & vicibus ante felo-
iam & murdrum prędictum in forma prædict perpe-
rat. apud K. prædictam, in comitatu prædicto malitio-
& felonice conſuluit, mandauit, procurauit, & abet-
uit, predictam H.M. ad prædictum murdrum voluntа-
um faciendum, ac ad interficiendum & murdrandum
ict. prolem femellam, contrà pacem dicti domini re-
is. Et vlterius, quod O.P. & A.B. de K. inprædicta in co-
itatu prædicto **Spinsters**, poſt murdrum & feloniam
ędictam in forma præd. facta, ſcientes præfatas H.M.
Ianam S. feloniam & murdrum prædict in form. prę-
ict. feciſſę & perpetraſſe, ipſam tamen H M. apud K.
rædict. in comit. prædicto (27. die dicti menſis Maij, an-
o ſupradicto, felonice receptauerunt & comfortauerũt,
ontra pacem dicti domini Regis nunc, coronam & dig-
itatem ſuam.

For wilfull poyſoning.

Vratores pro domino Rege præſentant, quod H. H. de
C. in in Comitatu prædict. **Yeoman**, ſecundo die De-
embris, anno regni dicti domini noſtri Iacobi, Dei gra-
ia Angliæ, Franciæ, & Hiberniæ Regis fidei defenſoris,
&c. 2. & Scotiæ triceſimo octauo, apud C. prædictam in
omitatu prædicto, in domo manſionali ibidem cuiuldã
W. B. nuper de C. prædicta, in dicto comitatu **Yeoman**,
ex malitia ſua præpenſa & præcogitata, voluntarie &
elonice porrexit, ac dedit in catillo quodam eidem W.
B. ad edendum quædam olera (Anglice vocata **Pot-**
age) ex cicuta venenoſiſſima, & alijs herbis virulentis
confect. & compoſita, quæ quidem olera prædictus W.
B. tunc ididem cum cocleari (quod in manu ſua dextra
tenuit) comedit, vnde prædictus W. B. ſtatim poſtea æ-
grotabat, ac a prædict. ſecundo die, anno ſupradicto, in
dicta domo ſua apud C. prædictam languebat, vſque
ſextum diem dicti menſis Decembris anno ſupradicto,

quo quidem 6. die, anno ſupradicto, prædictus W. B. et dicto etu oleruan prædictorum, in dicta domo ſuo apud C. prædictam in dicto comitatu interfecit. Et ſic iuratores prædict. preſentant, quod prædictus T. H. prænominatum W. B. apud C. prædictam in comitatu prædicto, modo & forma ſupradictis, ex malitia ſua præcogitata voluntarie & felonice veneno prædicto interfecit, ac murdrauit, contra pacem dicti dom. Reg. nunc, ac contra formam ſtatuti in Parliamento dom. Edwardi nuper Regis Angliæ ſexti (tenti apud Weſtmonaſterium in com. Middleſex. anno regni ſui primo) in huiuſmodi caſu prouiſum editi.

For a Murder committed by two.

IVratores pro domino Rege præſentant, quod A. B. nuper de C. in dicto comitatu **Blacksmith**, & D. E. de C. prædicta in Comitatu prædict. **Butcher**, ſeptimo die Septembris, anno regni dicti domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & HiberniæRegis fidei defenſoris, &c. ſecundo, & Scotiæ triceſimo octauo, vi & armis ex malitia ſua premeditata, in quendã F. G. nuper de B. in dicto com. **Yeoman**, apud B. prædictam in comitatu prædicto, in quodam loco ibidem (vulgariter nuncupato **the Bowling place**) ad tunc & ibidem in pace Dei & dicti domini regis exiſtentem, inſultum fecerunt, & præfatus A. B. cum quodam gladio diſtricto ad valentiam quinque ſolid. quem ipſe in manu ſua dextra aduunc & ibidem tenuit, ipſum F. G. ſuper ſinciput ſuum voluntarie & felonice tunc ibidem percuſſit, & eo ipſo ictu dedit eidem F. G. quandam plagam mortalem, in longitudine trium pollicium, & in profunditate quinque pollicium & dimid. de qua quidem mortali plaga, prædict. F. G. tunc ibidem inſtanter & immediate obijt. Et vlterius, quod prædictus D. E. cum quodam baculo ad valentiam vnius obuli (quem ipſe in manibus ſuis ad tunc ibidem tenuit) ipſum F. G. ad tunc & ibidem voluntarie & felonice percuſſit ſuper caput ſuũ

dam

ns eidem F. G. vnam aliam plagam mortalem in dicto
o capite, in longitudine trium pollicium, & in profun-
tate duorum pollicium, vnde idem F. G. de plagâ vlti-
e prædicta obijſſet, ſi non obijſſet de ictu illo priore
rædict. quem predictus A. B. ei primo dederat. Et ſic
ratores prædicti dicunt quod prenominati A. B. & D.
dicto ſeptimo die Septembris anno ſupradicto apud
prędictam in prædicto loco (vocato **the Bowling**
ace) prædictum F. G. modo & forma prædictis, ex ma-
ia ſua præcogitata, voluntarie & felonice interfece-
nt & murdrauerunt, contra pacem dicti dom. regis, ac
ntra coronam, & dignitatem ſuam.

For killing a man by Chance-medley.

Vratores præſentant pro domino Rege quod A. B. de
C. in dicto com. **Sowgelder**, decimo ſexto die Sep-
mbris, anno regni dicti dom. noſtri Iacobi, Dei gratia
ngliæ, Franciæ, & Hiberniæ reg. fidei defenſoris, &c.
ecundo, & Scotiæ triceſimo octauo apud C. prædict. in
omitat predicto, quendã E. F. nuper de C. prędictam, in
omitat. prędicto **weauer**, (cui tunc ibidem fortuito &
aſu obuiam venit) contumelioſis verbis laceſſiuit, ac in
undem E. F. tunc & ibidem, in pace dei ac dicti domini
egis exiſtentem, vi & armis inſultum fecit, & ventrem
icti E. F. tunc & ibid-m cum baculo longo, cuſpide
ræacuta capitato Anglice vocato **a long sharpe picked**
aſſe) quem idem A. B. tunc ibidem in manibus ſuis
enuit, felonice pupugit & perfodit, dans eidem E. F. vul-
us mortale in dicto ventre ſuo, latitudinis vnius pollicis,
& profunditatis ſeptem pollicium, de quo quidem mor-
ali vulnere idem E. F. tunc ibidem inſtanter obijt ac iu-
erijt: contra pacem dicti domini reg. nunc & contra co-
onam & dignitatem ſuas.

For

For pulling out of a mans eyes.

IVratores pro Domino Rege presentant, quod A.B. de C. in dict. comitatu Tinker, nono die Septembris, Anno Regni dicti domini nostri Iacobi, Dei gratia Anglie Franciæ, & Hiberniæ Reg fidei defensoris, &c. & Scotiæ triceſimo ſeptimo, in quodam loco apud C. prædict. in comitat. prædict. (vocato le Dene) vi & armis in quendam D.E. de C. prædicta in comitatu prædicto proditorie in pace dicti domini reg. tunc ibidem existentem insultum fecit, ac tunc & ibidem ex malitia sua præcogitata, digitis, & vnguibus digitorum ipsius A. B. oculos ipsius D.E. felonice effodit ac eruit, contra pacem dicti domini regis nostri, coronam & dignitatem suam, ac contra formam cuiusdam statuti in Parliament. domini reg Henrici olim Reg. Angliæ quarti, tento apud Westmonasterium in comit. Middlesexiæ anno reg. sui quinto, in huiusmodi casu prouisi & editi.

For the Rape of a woman child, under ten yeeres of age.

IVratores pro Domino Rege præsentant, quod C.R. de B. in comitatu prædicto Glatterman, tertio die Julij, anno regni dicti domini nostri Iacobi Dei gratia Angliæ, Francię, & Hyberniæ Regis fidei defensoris, &c. secundo, & Scotiæ triceſimo ſeptimo, apud B. prædictum in dict. comitatu (in domo mansionali ibidem cuiusdam A.S. Hosteler) vi & armis, in quandam M.N. de B. prædicta in dicto comitat. puellam, infra ætatem decem annorum tunc existentem, insultum fecit, ac tunc & ibidem eandem M.N. felonice ac carnaliter cognouit, ac eandem M.N. nequiter abusus est, contra pacem dicti dom. Regis nunc, ac contra formam statuti in Parliamento domini Reg. Eliz. tento apud Westmonasterium in com. Middlesex. anno dicti regni sui decimo octauo, in huiusmodi casu prouisi ac editi.

For the Rape of a maide, aboue ten yeares old.

IVratores præsentant pro domino rege, quod B. C. de E. in dicto comitatu Tauerner, quinto die Octobris anno regni dicti domi. nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defensoris &c. secundo, & Scotiæ tricesimo octauo, apud E. prædict. in dicto comitatu, in quodam loco ibidem (vocato le Bowre) vi & armis in quandam A. K. de E. prædict. in comitatu prædicto virginem, ætatis sexdecim annorum, tunc ibidem in pace Dei & dicti Domini regis existentē, insultum fecit, ac tunc & ibidem eandem A. contra voluntatem ipsius A. felonice rapuit, & carnaliter cognouit, contra pacem dicti domini Regis nunc, ac contra formam cuiusdam statuti in Parliamento dom. Edwardi olim regis Angliæ primi, tento apud Westmonasterium in com. Mid. anno regni sui 13. in huiusmodi casu prouiso & edito.

For taking away a widow (against her will) that hath lands.

IVratores præsentant pro domino rege, quod A. B. de C. in dicto comitatu Dingingman, secundo die Aprilis, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, vi & armis in domum mansionalem cuiusdam H. B. de C. prædict. in comitat. prædict. viduę, infra parochiam de C. prędict. in com. prędict. intrauit (quæ quidem H. B. tum seisita fuit in dominico suo vt de feodo, de, & in diuersis terris & tenementis in C. præd. in com. prædicto, clari annui valoris decem librarum vltra omnes repriſas existentibus) ac immediate postea, viz. dicto secundo die Aprilis anno supradicto, idem A. B. prędict. H. B. tunc ibidem in dict. domo sua in pace Dei ac dict dom. reg. existentem, ex dict. domo sua mansionali contra voluntatem ipsius H. B. il-

legitime

legitime ac felonice extraxit, eripuit, & abduxit, ac eandem H.B. postea scilicet 3. die dicti mensis Aprilis, anno supradicto, in ecclesia parochiali de C prædict in com. prædict cepit in vxorem suam, vbi idem A.B. dicto tempore extractionis & abductionis prædict. non clamauit nec clamare potuit, eandem H.B tanquam Wardam suã aut tanquam natiuam suam: In magnam pacis dict. dom. reg. nunc perturbationem, ac contra formam cuiusdam statuti in Parliamento Dom. Hen. nuper regis Angliæ septimi, tento anno regni sui tertio, in huiusmodi casu prouisi ac editi.

For Buggerie.

IVratores pro domino rege præsentant, quod A.B. nuper de C. in dicto comit. clericus, & alienigena in ciuitate Rom. Italię natus, x die Martij, vi & armis, apud C. prædict in comitatu prędicto, anno regni domini nostri Iacobi Dei gratia Angliæ, Franciæ, & Hybernię Regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo octauo in quendam I.S de C. prędicta in dict. comitat. puerum masculum (ętatis non amplius quindecim annorum, ac tunc ibidem in quodam loco vocato le Arbre, in pace dei & dicti domini regis existentem) insultum fecit, ac cum dicto I.S. puero prædict. scelerattissime, felonice, ac contra naturæ ordinem, tunc ibidem rem habuit veneream, dictumque puerum carnaliter cognouit, ac hic cum eodem puero peccatum illud horribile, ac Zodomiticum Anglice vocatum Buggerie, ad tunc ibidem felonice commisit, ac perpetrauit, contra pacem dicti dom. reg. nostri, ac contra formam statuti in huiusmodi casu ante hac prouisi ac editi.

For Burglarie of a dwelling house.

IVratores pro domino rege præsentant, quod T. S. de W. in dicto comitatu Cattler quarto die mensis Februarij, anno regni dicti domini nostri Iacobi, Dei gratia

gratia, Angliæ, Franciæ, & Hyberniæ Regis fidei defenſoris &c. ſecundo, & Scotiæ triceſimo octauo, vi & armis domum manſionalem cuiuſdam N. G. de W. prædict. in dicto comitatu **Butcher**, noctanter, viz. (inter horas decimam & vndecimã poſt meridiem eiuſdem diei) quadam Iohanna vxore ipſius N. G. tunc in eadem domo in pace dei & dicti dom. regis exiſtente, felonicè & Burghlariter fregit & intrauit, & viginti libras legalis monetæ Angliæ de bonis prædict. N. G. in quodam abaco in dict. domo exiſtentes inuentas, tunc & ibidem felonicè cepit & aſportauit, contra pacem dicti dom. Regis nunc, coronam & dignitatem ſuam.

For burning of a houſe by day.

IVratores pro Domino Rege præſentant, quod A. B. nuper de C. in comitatu prædicto **Victualer**, octauo die menſis Iulij anno regni dicti domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defenſoris, &c. ſecundo, & Scotiæ triceſimo ſeptimo, ad domũ manſionalem E. F. de C. prædicta in comitatu præd. generoſi, in C. prædict. in dicto comitatu exiſtentem, vi et armis inter horas ſextam & ſeptimam ante meridiem eiuſdẽ diei acceſſit, & cum vna libra pulueris tormentarij ad valentiam duodecim denariorum, & face quadam ignita, quę dictus A. B. tunc ibidem in manibus ſuis tenuit, ignem in quodam faſciculo ſtraminis tunc in dict. domo exiſtentis ex malitia ſua præcogitata felonicè accendit, vnde eadem domus tunc ibidem totaliter cremata & cõbuſta fuit (eodem E. F. tunc in pace dicti domini regis in dicta domo ſua exiſtente) & ſic prædictus A. B. dicto octauo die Iulij, anno ſupradicto apud C. prædictam, domum manſionalem prædicti E. F. prædictam, modo & forma prædictis, voluntarie ex dicta malitia ſua præcogitata, & felonicè incendit & combuſſit: contra pacem dicti domini Regis noſtri, ac coronam & dignitatem ſuas.

For

For a Robberie in the highway.

INquiratur pro domino Rege, Si A.B. de C. in dicto comitatu Mariner, sexto die mensis Octobris, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo octauo, vi & armis, viz. cum gladio & pugione (ad valentiam decem solidorum) districtis, inter horas septimam & octauam ante meridiem eiusdem diei in alta via regia iuxta quendam locum (vocatū Gads hill) infra parochiam de F. in comitatu prædicto, in, & super quendam I. S. de B. in comitatu prædicto Petit Chapman, tunc & ibidem in pace Dei, ac dicti dom. Regis existentem insultum fecit, & ipsum I.S. tunc ibidem cum dicto gladio percussit & vulnerauit, & viginti solidos legalis monetæ Angliæ numeratæ in crumena ipsius I.S. existentes, de bonis & catallis prædict. I.S. ad tunc & ibidem inuentos, à persona ipsius I.S. tunc & ibidem violenter & felonicè cepit & asportauit, in magnum prædict. I.S. terroré, ac contra pacem dicti dom. Regis, coronam & dignitatem suas.

For the taking of a purse priuily from the person.

IVratores pro Domino Rege præsentant, quod I.S. nuper de A. in dicto comitat. Tayler sexto die Iulij, anno regni dicti domini nostri Iacobi Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, apud A. pręd. in com. præd. in quodam loco ibidem, vocato the Elmes, vi & armis in quendā R.M. de A. prædict. in com. præd. Grocer, insultū fecit, & viginti solid. in pecunijs numeratis in crumena ipsius R.M tunc & ibidē existentes inuentos, de præd. crumena ipsius R.M. tunc & ibidē à persona ipsius R.M. (clàm & insciente ipso R.M.) felonicè cepit & asportauit,

contra

tra pacem dicti dom. regis, ac contra coronam, & dig-
atem ſuas.

Againſt the ſtealer of a horſe, and his after acceſſarie.

ratores pro domino Rege præſentant, quod A. B. nu-
er de C. in dicto comitat. Gelder, 29. die Auguſti anno
ni dicti Domini noſtri Iacobi, Dei gratia Angliæ,
nciæ, & Hiberniæ regis fidei defenſoris, &c. ſecun-
& Scotiæ triceſimo octauo, vi & armis, quoddam ſta-
lum, in domo manſionali cuiuſdam I. S. infra paro-
am de C. prædict. in comitat. predicto, exiſtens fregit,
intrauit, & vnum equum ſpadonem Anglice vocatū
Gelding, coloris albi, precij ſex librarum, & vnam e-
am coloris nigri pretij 30 ſolid. de bonis & catallis ip-
s I. S. tunc ibid. exiſtentes inuentos felonice cepit &
duxit contra pacem dict. dom. Reg. coronam & digni-
em ſuas. Et quod K. H. nuper de C. prēd. in comit. prē-
to Horſecourſer, ſciens præfatum A. B. feloniam prē-
ctam apud C. prædict. modo & forma præd. feciſſe &
rpetraſſe, eundem tamen A. B. apud C præd. in comit.
ædicto triceſimo die dicti menſis Auguſti, anno ſupra-
cto felonice recepit, & hoſpitio excepit, poſt feloniam
ædictam ſic per ipſum A. B. vt præfertur factam & com-
iſſam contra pacem dicti domini noſtri reg. nunc & cō-
a coronam, ac regiam dignitatem ſuas.

Againſt a ſeruant that ſtealeth his maſters goods, committed to his keeping.

Vratores præſentant pro domino rege, quod cum
A. B. de C. in dicto comitatu Mercer, viceſimo die
eptembris anno reg. Domini noſtri Iacobi, Dei gratia
ngliæ, Franciæ, & Hyberniæ Reg. fidei defenſoris, &c.
ecundo, & Scotiæ triceſimo octauo in domo manſiona-
ipſius A. B. apud C præd. in comit. prædicto deliberaſ-

ſet

ſet & cuidam E.F. de C. prædict. in dict. comit. [illegible]
tunc ſeruienti ipſius A.B. pro vno anno integro retent[illegible]
ac ætatis 19. annorum exiſtenti, decem libras in pe[illegible]
nijs numeratis de bonis ipſius A.B. ea intentione, vt [illegible]
E.F. eaſdem ſaluo cuſtodiret, ad vſum prędicti A.B. tu[illegible]
magiſtri ſui: idem E. F. dicto viceſimo die Septemb[illegible]
anno ſupradicto (apprenticius dicti A.B. tunc non e[illegible]
ſtens) apud C. prædict. in comitatu prędicto, a dict. m[illegible]
giſtro ſuo vna cum pręd. decem libris dicti A.B. tunc m[illegible]
giſtri ſui malitioſe & felonice diſceſſit, abijt, & aufu[illegible]
ea intentione, ad furandum dictas decem libras, com[illegible]
fiduciam in eo per præfatum, A. B. tunc magiſtrum ſ[illegible]
repoſitam & collocatam, & ad inde dictum A. B ma[illegible]
ſtrum ſuum prædictum defraudandum: contra pac[illegible]
dicti domini Regis, ac contra formam diuerſorum ſta[illegible]
torum huius reg. Angliæ in huiuſmodi caſu prouiſo[illegible]
& editorum.

Againſt the ſtealer of a Cowe, and his Acceſſarie before.

IVratores pro domino rege præſentant, quod A.B. d[illegible]
C in dicto comitat. **Shoomaker**, primo die Iulij, ann[illegible]
Regni domini noſtri Iacobi Dei gratia Angliæ, Fra[illegible]
cię, & Hyberniæ Regis fidei defenſoris, &c. ſecundo
& Scotiæ triceſimo ſeptimo, in quodam loco infra pa[illegible]
rochiam de C. prædicta, in comitatu prædict. vocato [illegible]
Cowpasture, vi & armis, clauſum cuiuſdam I.S. d[illegible]
D. in comitatu prædicto **Yeoman**, fregit & intrauit, &
quandam vaccam, coloris nigri, pretij 40. ſolidorum,
de bonis & catallis prędict I.S. tunc ibidem exiſtentem
inuentam, felonice cepit, furatus eſt, & abduxit, contra
pacem dicti domini regis nunc, coronam & dignitatem
ſuas Et quod quidam G.H. de C. prædicta in dicto co-
mitatu **Butcher**, ante feloniam prędictam, ſcilicet o
odem primo die Iulij anno ſupradicto, eundem A.
B. apud C. prædictam in comitatu prædicto, ad felonia
am prædictam faciendam & perpetrandam, malitioſe

& felonicè excitauit, perſuaſit, & procurauit, contra
ce.n dicti domini Regis coronam & dignitatem
am.

For hunting by night in a Parke, and for concealing the ſame.

Vratores pro Domino Rege præſentant, quod ſecun-
o die Auguſti, anno regni Domini noſtri Iacobi Dei
atia Angliæ, Franciæ, & Hyberniæ Regis, fidei defen-
is, &c. ſecundo, & Scotiæ triceſimo octauo, inter ho-
s decimam & vndecimam in nocte eiuldem diei A.
de C. in dicto comitatu generoſus, D. E. & G. H. de F.
dicto comitatu **huſbandmen**, aggregatis ſibi nonnul-
alijs malefactoribus ignotis, ad numerum ſex per-
narum, vi & armis, videlicet, prelongis baculis, ar-
balistis, & ſagittis, clauſum & parcum dicti domi-
Regis noſtri apud O. in dicto comitatu fregerunt, &
trauerunt, & vnum par damarum dicti domini Re-
s, Anglicè vocatum, **a brace of Bucks**, in dicto par-
adtunc & ibidem depaſcent. & inuent. illegitime
nati ſunt, ac cum duabus ſagittis ex dictis arcubali-
s emiſſis, & ſagittatis adtunc & ibidem occiderunt, &
portauerunt, contra pacem dicti domini regis; ac
iod poſtea, die ſequente, videlicet tertio die dicti men-
Auguſti anno ſupradicto, T. S. tunc parcarius di-
domini Regis dicti ſui parci de O. præd. in comitatu
ædicto, informauit apud C. prædictam I. W. v-
um Iuſticiariorum pacis dicti Domini Regis in comi-
tu prædicto, de illicita venatione prędicta modo &
rma prædictis facta, qui quidem Iuſticiarius ſuperin-
Warrantum ſuum in ſcriptis, poſtea videlicet, di-
o tertio die Auguſti, anno ſupradicto direxit cui-
m K. M. vni conſtabulariorum Hundredi de S. in
omitatu prædicto (in quo quidem hundredo ſitæ
nt prædictæ villæ de C. & E.) eo tenore, vt idem con-
abularius arreſtaret prænominatos A. B. D. E. & G. H.
coſdem coram eodem Iuſticiario duceret & haberet

ad eos de dicta illicita venatione examinandum; E
quod dicti A.B.D.E. & G.H. postea, scilicet dicto ter
die Augusti anno supradicto, coram dicto Iusticiario
pud C. prædictam in comitatu prædicto per Constab
larium prædictum virtute dicti warranti adducti, ac p
eundem Iusticiarium per suam discretionem de dicta
licita venatione, & de factoribus in ea parte exami
existentes, prædict. tamen venationem voluntarie &
lonicè concelauerunt, & eorum quilibet voluntarie
felonice concelauit, contra pacem dicti domini reg
ronam & dignitatem suas, necnon contra formam cu
dam statuti in Parliamento Domini Henrici nuper
Angliæ 7. tento, anno regni sui primo, in huiusmodi c
prouisi ac editi.

For a wilfull Rescusse of one imprisoned in the stockes for felony.

IVratores pro domino Rege præsentant, quod vicesi
die Iunij, anno regni dicti domi. nostri Iacobi, Dei g
tia, Angliæ, Franciæ, & Hiberniæ Regis fidei defenso
&c. secundo, & Scotiæ tricesimo septimo, quidam A
nuper de C. in dicto comitatu Glouer, apud C. prædi
in com. præd. captus est & arrestatus per E. F. de C. præ
in comitatu prædicto Yeoman, pro suspitione cuius
feloniæ, viz. vnius vaccæ ipsius F. F. per præfat A. B. fel
nice, vt idem E. F. tunc asserebat; captæ & abductæ,
quod idem A B immediate postea traditus est per præ
fat. E. F. cuidam H. M. tunc constabulario hundredi de
in quo sita est villa de C prædict. qui quidem constab
pud C. prædictam in comitatu prædicto, postea, viz.
cto 20. die Iunij anno supradicto, eundem A. B. in pri
na in cippis ibidem posuit, ad eum saluò ibidem custo
endum, donec idem constabularius parare posset au
lium ad ducendum eundem A. B. coram aliquo Iusticia
riorum pacis dicti domini reg. in comitatu prædicto ex
minan

inandum: ac quod poſtea, ſcilicet dicto xx. die anno ſu-radicto, quidam G. L. de C. prędicta in comitatu præ-dicto Glouer; apud C. prædictam in dicto comitatu, vi & mis cippos prędictos effregit; ac eundem A. B. tunc idem exiſtentem, ex eiſdem cuſtodia, priſona, & cippis lonice cepit, eripuit, & reſcuſſit, ac ad largum ire et e-adere permiſit, contra pacem dicti domini noſtri regis, oronam & dignitatem ſuas.

For the breaking of Priſon.

Nquiratur pro Domino Rege, ſi W. H. de C. in comitatu prędicto Yroman, vnus conſtabulariorum dicti domi-i regis hundredi ſui de T. in comitatu prædicto, in quo uidem hundredo ſita eſt villa de C. prædicta, quendam .B. nuper de C. prędicta in comitatu prædicto Tay-o, 20. die Septembris, anno regni dicti domini noſtri acobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, idei defenſoris, &c. ſecundo, & Scotiæ triceſimo octauo, pud C. prædict. in dicto comitatu pro ſuſpitione cuiuſdã elonię, viz pro morte cuiuſdam M. N. apud H. in comi-atu prædicto felonice interfecti, cepit & arreſtauit: Et de cauſa idem R. B. ſub cuſtodia dicti W. H. conſtabu-arij, in priſona dicti domini reg. apud C. præd. in comi-atu prædicto poſtea ſcilicet dicto xx. die Septembris an-o ſupradicto fortiter & duriter detentus fuerit, ac idem .B. tunc ibidem ſic detentus, poſtea, viz. dictis die & an. pud C. præd. in com. præd. vi & armis præd. priſonam i-idem felonice fregit, ac extra cuſtodiam dicti conſtabu-arij tunc ibidem contra eius voluntatem felonice euaſit ontra pacem dicti dom. reg. noſtri nunc, coronam & ignitatem ſuas, necnon contra formam ſtatuti in huiuſ-nodi caſu prouiſi ac editi.

For a voluntarie escape of a Felon, out of the Gaole.

Kanc. IVratores pro Domino Rege præsentant, quod vbi quidam A. B. nuper de C. in dicto comitatu Shoomaker, sexto die Maij, anno regni Domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, apud C. prædict. in comitatu prædicto pro suspitione caiusdã felonie, viz. vnius equi, coloris albi, precij xl. solid. felonicè per eundem A B. vt dicebatur, capti & abducti, arrestatus est & captus, & coram T.F. vno Iusticiariorum dicti domini reg. ad pacem in dicto comitatu conseruandum assignatorum ductus, & superinde postea, viz. dicto die, anno & loco, cuidam B. D. in com. præd. Yeoman, custodi Gaolæ dicti domini Regis apud M. in dicto comitatu existenti (sub custodia I.F. armigeri, adtunc vicecomitis comitatus prædicti, & custodis Gaolæ prædict.) per quoddam præceptum de Mittimus dicti T.F. Iusticiarij traditus est, & cõmissus, ad saluo & securè custodiendum in Gaola prædicta donec idem A B. inde foret legitimo modo deliberatus, prefatus tamen I.F. (tunc vicecomes) postea, viz. 7. die dicti mensis Maij anno supradicto, apud M prædict. in comitat. prędict. præfat. A. B. adtunc & ibidem in dictis gaola & custodia existentem, à prædictis custodia & Gaola, adtunc & ibidem *euadere & ad largum ire voluntarie & felonice permisit*, contra pacem dicti dom. reg. coronam & dignitatem suam.

And for a negligent escape, the vnderlined words may be changed thus, pro defectu bonæ & diligentis custodiæ, euadere, & ad largum quo voluit ire negligenter permisit, contra pacem, &c. **As before.**

Vpon

Vpon a rebellious assembly.

IVratores pro domino Rege præsentant, quod prim. die mensis Octobris, anno regni domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ Regis, fidei defensoris &c. 2. & Scotiæ tricesimo octauo, A. B. C. D. E. F. **And so reciting thirteen or fourteen persons in al, with their additions of occupations and dwellings**, apud quendam locum infra parochiam de O. in comitatu prędict. Anglicè vocatum **le old Court**, inter horas decimam & vndecimam ante meridiem eiusdem diei, vi & armis, tam inuasiuis quam defensiuis, videlicet, gladijs, pugionibus, baculis, arcubus, sagitis, tunicis ferreis, & tormentis, seipsos congregauerunt & assemblauerunt; ac tunc ibidem intenderunt, conati sunt, & practicauerunt, vi & armis, illegitimè, & ex authoritate sua propria, secare, & prorsus euertere, prosternere ac destruere quoddam caput vnius aquæ ductus, Anglice vocatum a **Conduit head**, tunc ibidem in fundo cuiusdam R. S. de O. prędicta in comitat. prædict. generosi existens & cursum aquæ in ipso habens, ea intentione, vt idem caput aquæ ductus prædit. ex tunc apertum & vacuum remaneret ac iaceret. Et vlterius quòd super querimonia inde facta coram T. W. vno Iusticiariorum pacis dicti domini regis in comitatu prædicto, omnes & singuli prędicti A. B. C. D. E. F. &c. tunc & ibidem per eundem Iusticiarium requisiti sunt ac iussi (per proclamationem in nomine dicti domini Regis tunc ibidem per eum palàm factam) ad habitationes, loca, & domos suas, vnde venerant, se inde in pacifico modo retrahere, retirare, discedere, & reuorti; quæ quidem proclamatio tunc ibidem modo & forma sequentibus habita et facta est, viz. prędictus T. W. Iusticiarius tunc ibidem fecit alta voce vnam **Oyes** ac tunc ibidem immediatè hæc verba Anglicana sequentia palàm alta voce pronũciauit, dicens scilicet.

The King our Soueraigne Lord chargeth and commaundeth all persons (being assembled) immediately to dispersse themselues, and peaceably to depart to their habitations, or to their lawfull busynesse vpon the paines contained in the Act lately made against vnlawfull and rebellious assemblies. And God saue the King.

Et vlterius Iuratores prædicti dicunt, quod non obstante dicta proclamatione modo & forma prædictis per præfatum Iusticiarium tunc ibidem facta & habita, ijdem tamen omnes & singuli prædicti A.B.C.D.E.F.&c. in dicto loco vocato le old Court, infra parochiam de O. prædicta in dicto comitatu per spacium duarum horarum, immediate & continue post dictam proclamationem fact vt præfertur factam & habitam, sequentium, seditiose felonice insimul remanserunt & continuauerũt, in magnum dicti domini reg. contemptum, ac contra pacem, coronam, & dignitatem suas, necnon contra formam diuersorum statutorum in huiusmodi casu prouisorum & editorum,

For vnlawfull Purueyance.

IVratores pro domino Rege præsentant, quod primo die Iulij, anno regni dicti Domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, quidam H. W. nuper de G. in dicto comitatu Tiler, apud C. in comitatu prædicto, præ se ferens, & asserens se esse vnum de prouisorib. & emptorib. hospitij dicti domini reg. dicto primo die, anno suprad. (quo quidem tempore nullum ostendit aut secũ habuit Warrantum sub magno aut priuato sigillo dict. dom. reg.) apud C. pręd. in comit. prædicto tres oues castratas (Anglice vocatas weathers) pretij xx. solid. de bonis & catallis I. S. de C. prædict. in dicto comit. Yeoman, tunc ibidem existentes inuentas, &

lore purueiancíæ pro dicto hoſpitio, illegitime ac felo-
ce cepit, & abduxit, contra pacem dicti domini reg. ac
ntra formam diuerſorum ſtatutorum in huiuſmodi ca-
prouiſorum & editorum.

For a treſpas of Batterie and Mayheme.

Vratores præſentant pro Domino rege, quod tertio die
Septembris, anno regni dicti domini noſtri Iacobi, Dei
atia Angliæ, Franciæ, et Hybernię Regis fidei defenſo-
, &c. 2. et Scotiæ 38. A. B. de C. in comitatu prædicto,
allor, vi & armis, quoddam clauſum cuiuſdam I. S. a-
d C. prædict. in comitatu prædicto, fregit & intrauit, &
dictum I. S. tunc ibidem in pace Dei & dict. dom. reg.
iſtentem, inſultum & affiaram fecit, ac cum gladio di-
icto, ad valentiam decem ſolidorum quem dictus A. B.
nc ibidem in leua manu ſua tenuit, eundem I. S. crude-
er verberauit, ac dextrum pollicem dicti I. S. tunc ibi-
em vno ictu amputauit, ac ſic eundem I. S. nequiter &
lonice tunc ibidem mayhemauit, ad graue incommo-
um ipſius I. S. ac contra pacem dict. dom. reg. noſtri co-
onam & dignitatem ſuam.

For a Champertie.

Vratores præſentant pro Domino Rege, quod I. C. T.
C. ac I. P. de O. in dicto comitatu Yeomen, ac alij (de
onfœderatione & couina prædictorum I. C. T. C. & I.
exiſtentes) quoddam placitum aſſiſæ nouæ diſſeiſinæ,
uod nuper ſummonitum fuit in curia dicti dom. Regis,
oram dilectis & fidelibus dict. dom. Regis, I. S. & I. K. &
lijs nuper Iuſtitiarijs ipſius dom. Regis, ad aſſiſam il-
am capiendam aſſignatis, per Breue ipſius domini re-
is inter W. S. querentem & I. H. tenentem de libero
uodam tenemento in N. & S. in comitatu prædict. vi-
elicet, pro medietate inde ſibi & hæredibus ſuis im-
erpetuum, videlicet, pro ſumma centum libr. ſterlin-

gor. in pecunia numerata in hac parte habenda, per &
mentionem inde inter prædictum N.S. & præfatos I.C.
T.C.& I.P. viceſimo die menſis Auguſti, anno regni
domini noſtri Iacobi, Dei gratia Angliæ, Francie, &
berniæ regis, fidei defenſoris &c. & Scotiæ 38. apud
prædict in dict. comitatu factam, pro prædict. W.S.
tra præfatum I.H. dictis die, anno, & loco, aſſumpſer
manutenendum, & manutenuerunt: in magnam
domini reg. contemptum, ac contra formam diuerſorum
ſtatutorum huius regni ſui Angliæ, in huiuſmodi
prouiſorum ac editorum.

For a treſpas of depaſturing corne and graſſe.

INquiratur pro Domino Rege, ſi A.B. de C. in dicto
mitatu Yeoman, viceſimo die menſis Auguſti, anno
ni dicti domini noſtri Iacobi Dei gratia Angliæ, Franci
& Hyberniæ Regis, fidei defenſoris, &c. ſecundo, & Sco
tiæ triceſimo octauo, quoddam clauſum cuiuſdam I.S.
pud C. prædict. in comitatu prædicto, vulgariter voca
(Cow leaſe) vi & armis fregit ac intrauit, ac herbas,
blada triticea ipſius I.S. tunc ibidem creſcentia, ad
lentiam xx. ſolid. cum quibuſdam bobus, & bidentib
ipſius A.B. tunc ibidem depaſtus eſt ac conſumpſit: Ne
non ſolum & fundum ipſius I.S. tunc ibidem cum q
dam aratro ſubuertit, per quod prædict. I.S. omne
modum & proficuum dicti ſoli ſui, per longum tem
poſtea amiſit, ac alia dampna & enormia prædict.
tunc ibidem intulit, ad graue damnum ipſius I.S. ac co
tra pacem dicti domini noſtri reg. nunc coronam &
ritatem ſuas.

For embracerie of Iurors.

IVratores præſentant pro Domino Rege, quod A
C.D.E.F. & G. H. &c. complices I.K. naming all
Iurors, &c. Iurat in quadam aſſiſa nouæ diſſeiſinæ (

per ſummonita fuit corã dilectis & fidelibus dicti do-
ni Reg. I.B. I.C. & N.C. nuper Iuſticiciarijs dicti do-
ni regis nunc ad aſſiſam illam capiendam, per breue
ius Domini regis inter W.S. & I.H. de tenementis in
in comitatu prædicto, & poſtmodum (viz. die Lunæ,
anno &c. coram præfatis I.B. I.C. & c. apud M. in co-
tatu prædicto per breue ipſius domini reg. ſi non om-
s capt. poſit.) pro veredicto ſuo in hac parte dicendo
præfato I.H. diuerſas pecuniarum ſummas, viz. A.B. de
dict. I.H. xl. & alia dona, ſcilicet panem, carnes, & vi-
m ad valentiam xx. ſolidorum. Et prædict. I.K. (Imbra-
tor eiuſdem aſſiſæ ad eandem ducend. & procurand.)
prænominat. W.S. ſum. decem marcarum, viceſimo
e Auguſti, anno regni dicti domini noſtri Iacobi Dei
atia Angliæ, Franciæ, & Hyberniæ Regis, fidei defen-
ris &c. 2. & Scotiæ 38. apud M. prædict. in comitatu
rædict. illegitimè ceperunt. In dicti Domini Regis
unc contemptum, ac contra formam cuiuſdam ſtatuti
parliamento Domini Edwardi olim Regis Angliæ ter-
j, anno regni ſui triceſimo octauo tento, in huiuſmodi
ſu prouiſi ac editi.

Againſt a common Barrettour.

IVratores pro domino reg præſentant, quod A.B. de C.
in dicto comitatu Taylor, ſecundo die Octobris, anno
egni dicti Domini noſtri Iacobi, Dei gratia Angliæ,
Franciæ, & Hibernię Reg. fidei defenſoris &c. 2. & Sco-
iæ 38. apud C. prędict. in comitatu prædicto, fuit, &
adhuc eſt communis Barrectator, & pacis dicti domini
Reg. perturbator aſſiduus & public', necnon cõmunis ac
turbulent' calũniat', conuiciat', pugnat', & litiũ inter vi-
cinos ſuos ſeminator, adeo vt diuerſas lites, cõtrouerſias,
necnon iurgia, & pugnas adtunc ibid. & alibi in dict. co-
mitatu inter diuerſos dicti Domini Regis ligeos & ſub-

ditos

ditos mouit, procurauit, & excitauit: in magnam &
Domini Regis pacis perturbationem, ac contra
mam diuersorum ordinationum ac statut huius regni
Angliæ, in huiusmodi casu antehac prouisorum ac
torum.

For Extortion in a Coroner.

INquiratur pro domino Rege, si A.C. de B. in dicto
mitatu (generosus, 6. die Iunij, anno regni dom
nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiber
Regis, fidei defensoris &c. 1. & Scotiæ 37. vnus coronat
dicti domini Regis, in dicto comitatu adtunc exist
apud B. prædictam in comitatu prædicto colore of
prædict. extorsiuè cepit pro feodo suo 20. solid. de
dam I.S. in dicto comitatu generoso, in, & pro fun
& executione officij sui prædicti, super visum corp
R. N. nuper de B. prædicta in comitatu prædicto (
quidem R. N. quinto die dicti mensis Iunij, anno sup
dicto, apud B. prædict. in comitatu prædict. casu ab
suo, per infortunium fuit occisus) in magnum dicti d
mini Regis contemptum, ac contra formam statuti
parliamento Domini Henrici nuper Regis Angliæ co
tento, anno regni sui primo, in huiusmodi casu pro
ac editi.

For Extortion in a Bishops Scribe or Regista.

IVratores præsentant pro domino rege, quod A.B. d
C. in dicto comitatu generosus, primo die mensis Au
gusti, anno regni dicti domini nostri Iacobi, Dei gra
Angliæ, Franciæ, & Hyberniæ Regis fidei defensoris &c.
secundo, & Scotiæ, 38. adtunc Scriba, siue Registrar
reuerendi in Christo patris, D. tunc permissione divin
Hagustaldensis Episcopi existens, apud M. in comitat
prædicto, colore officij sui prædict' extorsiue ac iniu
ose cepit de quodam I.S. de M. prædicta in dicto co

...andman, duos ſolidos legalis monetæ Angliæ pro ... ipſius A. B. pro ſcriptione probationis vnius te... enti cuiuſdam R.N. (qui quidem R.N. apud M. præ... m infra diœceſin dicti D. Epiſcopi vicesimo quar... e Julij, anno ſupradicto mortuus eſt) vbi reuera ... teſtamentum tunc ibidem allatum eſt ad dictum ...bam (ſiue Regiſt.) per dictum I. S. in pergameno ...tum: & vbi omnia bona, Iura, & credita dicti R.N. ...o tempore dictæ mortis ſuæ non excedebant ſum... 5. libr. & vbi etiam tota dicta ſcriptio probationis ...menti prædict' per præfat. ſcribam (ſiue Regiſt.) ſic ...ræfertur facta, non continebat in ſe 40. lineas, qua... quęque linea erat decem pollicium in longitudine. ...agnum dicti domini Regis contemptum, ac con... formam cuiuſdam ſtatuti in parliamento domini ... nuper Regis Anglię octaui tento ann. regni ſui 21. ...iuſmodi caſu prouiſi ac editi.

For a Riotous affray, at the Quarter Seſſions of the Peace.

...ratores pro Domino Rege præſentant, quod octauo ...ie Octobris, anno regni dicti Domini noſtri Iacobi, ...i gratia Angliæ, Franciæ, & Hibernię Regis fidei de... foris &c. 2. & Scotiæ 38. apud M. in com. præd. tem... re generalis Seſſionis pacis pro dicto comitatu tunc ...idem tentæ, & H. C. milite, & ſocijs ſuis Iuſticiarijs ...cti domini Regis, ad pacem in dicto comitatu con... uandam aſſignatis tunc ibidem exiſtentibus, & in ...ena curia ſedentibus, quidam A.B.C.D.E.F.G.H. & ... de S. in comitatu prædicto Generoſi, aggregatis ſi... nonnullis alijs pacis dicti Domini Regis perturba... ribus ignotis, ad numerum 20. hominum, vi & ar... is, videlicet, gladijs & pugionibus armat. illicitè, rou... osè & riotosè ſeſe aſſemblauerunt ac inter ſe inſultam ... affraiam maximam tunc ibidem fecerunt, ſeſe inui... em verberantes & vulnerantes, in magnum terrorem

tam

am dictorum Iusticiariorum tunc ibidem in curia se-
tium, quàm totius populi dicti dom. nostri reg. ad di-
Sessionem pacis tunc ibidem conuenientium, ac co-
pacem, coronam, & dignitatem dicti domini Regis
stri.

For giuing of a Liuerie.

IVratores pro domino rege præsentant, quod T. I.
C. in dicto comitatu armig. secundo die Septem-
anno regni dicti dom. nostri Iacobi, Dei gratia Ang-
Franciæ, & Hybernię Reg. fidei defensoris &c. secu-
& Scotiæ, tricesimo octauo, apud C. prædict. in com-
dict. quasdam liberatas vesturæ, viz. cuidam A.B.
præd. in com. prædicto Yeoman, tres vlnas panni
coloris veneti, pretij 20. solid et C.D. de E. in dicto
tatu. Yeoman, alias tres vlnas similis panni lanei, eo-
dem coloris et pretij, ad duas seperales tunicas pro
fatis A.B. et C.D. inde faciendas, dedit ac distribuit
reuera præfati A. B. et C.D. aut eorum alter, nunq
fuerant, aut fuit, domestici seruientes. aut domestica
uiens, officiarij, siue officiarius, Balliui siue Ballius
T.B. aut de consilio ipsius T.B. in vna lege siue alter
ruditi vel eruditus: In magnum dicti Domini regis
remptum, ac contra formam diuersorum statuto-
huiusmodi casu prouisorum et editorum.

For receiuing and vsing of a Liuerie.

IVratores pro Domino rege præsentant, quod A.B.
C. in com prædicto Yeaman, vnam liberatã panni
delicet tres vlnas panni lanei coloris veneti vocati,
glice Murrey, ad valentiam 20. solid. ad tunicam
sibi faciendam de T. B. de C. prædicta in comitatu
dicto armigero, apud C. prædictam in dicto comitatu
secundo die Augusti, anno regni dicti domini nostri
cobi, Dei gratia Angliæ, Franciæ, et Hybernię Regis
dei defensoris, &c. 2, et Scotiæ 38. recepit: & eadem
tunicam

a a dicto die ſecundo, anno ſupradicto, vſque 3. di-
enſis Septembris, anno ſupradicto, apud C. prædi-
& alibi in diuerſis locis infra comitatum prædictum
ſt: vbi idem A.B. dicto tempore receptionis libera-
rædict. aut vnquam poſtea non fuit familiaris, offi-
us, aut de conſilio dicti T.B. in vna lege aut altera
tus: in magnum dicti domini Regis contemptum,
ntra formam diuerſorum ſtatutorum in huiuſmodi
inte hac Prouiſorum & editorum.

For Vſurie.

tores pro domino Rege præſentant, quod vbi
B. de C. in dicto comitatu **Mercer**, primo die
bris, anno regni dicti domi. noſtri Iacobi, Dei gratia
iæ, Franciæ, & Hiberniæ Regis fidei defenſoris, &c.
ndo, & Scotiæ triceſimo octauo, apud C. præd. in di-
om. mutuò dediſſet et accommodaſſet cuidam D.E.
præd. in dicto comitatu **Shoomaker**, ſummam 20.
in pecunijs numeratis de pecunijs dicti A.B. in ea
tione, vt idem D.E. viginti libras eidem A.B. redde-
t reſolueret primo die Aprilis tunc proxime futuro:
A.B adtunc et ibidē iniuſte cepit et habuit præ ma-
s de prænominato D.E. viginti ſex ſolidos in lucro,
a & proficuo pro differendo, & dando diē ſolutionis
præfertur earundē 20. libr. à dicto primo die Octo-
anno ſupradicto, vſque dict. primum diem Aprilis
proxime ſequentem, qui quidem 26. ſolidi (modo
rma prædictis, præ manibus capti et habiti) multò
dunt & ſuperant ratam et proportionem decem li-
um pro centum libris pro vno an. integro accōmo-
d. addamnum non mediocre ipſius D.E. ac in con-
ptum dicti dom. regis nunc, necnon contra formam
erſorum ſtatutorum in huiuſmodi caſu prouiſorum et
orum.

Againſt Bakers conſpiring to make ſmall bread.

IVratores pro Domino Rege præſentant, quod A. D.E.F.& G. H. de M. in dicto comitatu piſtores do die menſis Octobris, anno regni dicti domini Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ fidei defenſoris, &c. ſecundo, & Scotiæ triceſimo apud M. prædictam in comitatu prædicto inſimul nerunt, conſpirauerunt ac mutuò inter ſe promiſ quod panis denarij de integro frumento (per eos rum aliquè, tum deinceps faciendus ac vendendus amplius quàm 2. libras & ſex vncias Troiæ ponder bebit & ponderabit, quodcunq; impoſterum forer quarterij frumenti preciũ: in dicti dom. noſtri reg contemptum, ac in extremum pauperum dicti Regis ſubditorum grauamen, necnon contra form uerſorum ſtatutorum in huiuſmodi caſu prouiſor editorum.

For a common bridge that is in dangerous decay.

IVratores pro Domino rege præſentãt, quod pons licus & communis, ſitus in alta regia via ſuper fl de Medwap, infra parochiam de A. in comitatu dicto (vulgariter dict. Bulſeford Bridge) eſt & per quot annos iam proxime lapſos fuit valde ruinoſus, maximo decaſu ob defectum reparationis, adeo ut diti dicti domini reg. in, ſuper, trans, vel vltra dict potem, per ſe, vel cum eorum equis, bigis, aut agijs, ire, redire, aut tranſire, ſine magno vitæ diſcrim non audent aut poſſunt, ad commune nocumentu omnium vicinorum, & compatriatarum in dicto co tatu habitantium, quorum intereſt ratione negoc

ſuorum, illac tranſire: Et vlterius quod prorſus neſ-
,quæ perſonæ, quæuè terræ, tenementa, aut corpo-
rporata, & politica, eundem pontem aut aliquam
parcellam, ex iure, aut ex antiqua conſuetudine, re-
,& reparare debent, aut conſueuerunt.

For a Rogue, or Vagabond, and his relieuer.

atores pro Domino Rege præſentant quod A. B. nu-
de C. in dicto comitatu Sceuelman, ętatis ſeptem
orum & amplius, ac corpore ſano, valente, potente,
e ad laborandum habili exiſtens, nullam autem ha-
terram, aut vllum magiſtrum, nec aliqua vtens
a. merchandiza, arte, vel myſterio vnde ſibi victum
re poſſet, decimo die Decembris, anno regni domini
ri Iacobi, Dei gratia Angliæ, Francię, & Hyberniæ
fidei defenſoris, &c. 2. & Scotiæ 38. apud E. infra hū-
dum de W. in comitatu prædicto, & multis alijs in lo-
dicti comitatus, illac paſſim vagarus eſt mendicās, ac
W. P. de E. prædicta in dicto comitatu Yeoman, con-
bularium dicti hundredi de W. (in quo ſita eſt villa de
prædicta) poſtea, viz. vndecimo die męſis Ianuarij, an-
ſupradicto apud E. prædict. in comitatu prædicto in-
ntus eſt vagans, & mendicans, ac per eundem con-
bularium tunc ibidem deprehenſus eſt inordinate ſe
ens, tanquam vagabūdus, & mendicus validus contra
em dict. dom. reg. ac contra formā diuerſorum ſtatu-
um inde prouiſorum & editorum. Et vlterius, quod G.
de E. prędict in dicto comit. Yeoman, ſciens præfatum
B. modo & forma præd. vagantem & mendicantem, e-
dem tamen A. B. dicto decimo die anno ſupradicto in
mo ipſius G. H. manſionali apud E. præd. in com. præd.
ſpitauit, & eidem A. B. tunc ibidem panem & potū vo-
ntarie dedit, in contemptum dicti dom. Reg. ac contra
rmam ſtatutor' præd.

For

For keeping a tipling house without Licence.

IVratores pro Domino Rege præsentant, quod A.B. de C. in dicto comitatu Yeoman, vicesimo die mensis Octobris, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ reg. fidei defensoris &c. 2. & Scotiæ 38. et continue multis diebus postea, videlicet, vsque primũ diem Nouembris, anno supradicto apud C. prædict. in comitatu prædicto, obstinate, ex authoritate propria ipsius A.B. et sine vlla iusticiarum pacis dicti domini Regis in comitatu prædicto missione aut allocatione, assumpsit super se custodire, et custodiuit vnam communem Tabernam, Anglice vocatum a common Tipling house, & ibidem dicto vicesimo die, & dictis diebus tum postea, communiter et publice vendidit cerusiam, panem, & pomum, Anglice dictum Beere, diuersis dicti dom. reg. legeis & subditis In dicti domini reg. contemptum, ac contra formam cuiusdam statuti in Parliamento dom. Edwardi nuper reg. Anglię sexti, tento apud Westmonasterium, anno regni dicti Domini Edwardi quinto in huiusmodi casu prouis. ac editi.

For keeping vnlawfull play, and for playing thereat.

IVratores pro Dom. rege præsentant, quod A.B. de C. in dicto comitatu Tiplet, secundo die Iunij, anno regni dicto domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Reg fidei defensoris, &c. 2. & Scotiæ tricesimo septimo, & continue post dictum diem apud supradicto, vsque primum diem mensis Iulij, anno supradicto apud C. prędictam in comitatu prędicto quendam communem locum iaciendi globos (vocatum Anglice

common **Bowling Alley**)pro lucro ipſius A. B. proprio, & ad ludendum tunc ibidem cum globis (anglice vocatis **Bowles**)illicite tenuit, cuſtodiuit, ac manutenuit, contra formam cuiuſdam ſtatuti in parliamento dom. Henrici nuper Regis Angliæ 8. tento anno regni ſui 33. in huiuſmodi caſu prouiſi ac editi: Et quod I. S.de C. præd. in dicto comit. **Labourer**,& tres aliæ perſonæ ignotę,dicto ſecundo die Iunij anno ſupradicto dictum communē locum vſitauerunt, ac tunc ibidem cum globis, Anglicè vocatis **Bowles**, inſimul & illicite luſerunt contra formam ſtatui prædicti.

For hunting Conies.

IVratores pro domino Rege præſentant, quod A. B. de C.in dicto comitatu **Labourer**,(homo laicus exiſtens) feſto Sancti Bartholomæi Apoſtoli,anno regni Domini noſtri Iacobi, Dei gratia Angliæ,Franciæ, & Hiberniæ regis fidei defenſoris, &c. ſecundo, & Scotiæ triceſimo octauo, continue vſque in hunc preſentem diem, apud C. prædict. incomitat. predicto, habuit & cuſtodiuit vnum canem gręcum Anglice vocatum a **Graphound**, ad venandum & chaceandum leopres & cuniculos: Et quod idem A. B. viceſimo ſeptimo die menſis Auguſti, anno ſupradicto, vnum cuniculum, valoris quatuor denariorʼ in quodam clauſo I. S.de C. prædicta in dicto comit. generoſi, vocato **the Coniegarth**, infra parochiam de C. præd.in dicto comit.exiſtent.cum dicto cane venatus eſt, & occidit, vbi idem A.B. nunquam habuit terras aut tenementa, ad clarum annum valorem quadraginta ſolidorum. In dicti domini Regis contemptum,ac contra formam cuiuſdam ſtatuti in Parliamento domini Richardi olim Regis Angliæ 2.tento anno Regni ſui 13. in hoc caſu prouiſi ac editi.

For vsing the Arte of Mercerie against the Statute.

IVratores pro domino Rege præsentant, quod A. B. de C. in dicto Comitatu **Mercer**, vicesimo die mensis Maij anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ Regis fidei defensoris, &c. 2. & Scotiæ 37. & multis alijs diebus continue post dictum diem per spatium duorum mensium, videlicet vsq; vicesimum diem Iulij, anno supradicto, apud C. prædictam in comitatu prædicto, quandam artem, siue mysterium, Anglice dict. **Mercerie**, illicite pro lucro suo proprio vsitauit & exercuit: tunc ibidem vendend. diuersas res siue merces, Anglice vocatas **Mercerie wares**, diuersis dicti domini nostri regis legeis & subditis, vbi reuera idem A. B. nunquam fuit in dicta arte siue mysterio educatus tanquam apprenticius per spacium septem annorum, nec idem A. B. eandem artem, siue mysterium prædictum, vnquam ante prædictum vicesimum diem, anno supradicto vsitauerit, aut exercuerit In magnam dicti domini nostri regis contemptum, ac contra formam cuiusdam statuti in Parliamento domin. Elizab. nuper reginæ Angliæ, tenti apud Westmonasterium anno regni sui quinto, in hoc casu prouisi ac editi.

For regrating of fish and butter.

IVratores pro Domino Rege præsentant, quod A. B. de C. in dicto comitatu **Mercer**, 20 die Iulij, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, apud C. prædictam in comitatu prędicto in quodam mercatu tunc ibidem tento pro xx. solid monetæ emit, regratauit, obtinuit, et nactus est in possessionem & manus suas, decem paria piscium (Anglice dicta **ten couples of Lings**,) & tria vasa butiri (Angli-

(Angli-

(anglice vocat. **A three firkins of salt butter**) de quodam E.F. qui prædicta decem paria piscium, ac dicta tria vasa butyri ad eundem mercatum vt ea ad tunc ibidem venderet adduxisset: Et quod immediate postea, scilicet dicto 20. die anno supradicto, idem A. B. in dicto eodem pleno mercatu tunc ibidem apud C. prædictam in dicto comitatu tento, eadem omnia dicta paria piscium, ac butiri vata, cuidam H.R. pro sexaginta solidis legalis monetæ dicti dom. reg. huius regni sui Angliæ, illicite vendidit, in magnum reipublicæ damnum, ac contra formam diuersorum statutorum huius reg. Angliæ, in huiusmodi casu prouisorum & editorum.

For not working vpon the Highwayes.

(Vratores pro domino reg. præsentãt, quod vbi die Martis in septimana Paschæ iam vltimo præterit', scilicet septimo die mensis Aprilis, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hybernię Reg. fidei defensoris &c. 2. & Scotiæ, tricesimo septimo, A.B. tunc constabularius villæ de C. in dicto comitatu & D. E. & F.G. tum guardiani Ecclesiæ parochialis de C. præd. in com. prædicto existentes, vocatis ad se multis alijs parochianis dictæ parochiæ de C. tunc & ibidem elegerunt quosdam I.S. & R.N. duas honestas eiusdẽ parochiæ personas, in superuisores pro vno anno integro tunc proximè sequenti, pro emendatione & reparatione altarum regiarum viarum infra dictam parochiam de C. ducentum a villis mercatorijs, ad villas mercatorias: ac etiam tunc ibidem nominauerunt & appunctauerunt sex dies, viz. 1. 2. 3. 4. 5. & 6. dies mensis Maij tunc proximè sequẽs, pro dicta emendatione dictarum viarum, & nominatim pro emendatione illius viæ regiæ ibidem quæ est inter &c. atque de eisdem sex diebus (sic per eos vt præfertur nominatis, & appunctuatis) dederunt paulum postea, scilicet die dominico dictæ Paschæ tunc proximè

mè ſequenti, publicam noticiam in dicta eccleſia parochiali: quidam tamen T. W. tum & adhuc parochianus de C. prædicta in comitatu prædicto exiſtens, actum habens & occupans in dicta parochia de C. in com. præd. vnam integram carucatam terrę arabilis (Anglicè dicti **a ploughland**) nullum dictis primo ſecundo & quart' diebus dicti menſis Maij anno ſupradicto prorſus inuenit, aut miſit currum inſtructum (Anglicè dictum **a waynt, or cart furniſhed**) equis, bobus, aut alijs animalibus, & neceſſarijs, ſecundum morem patriæ ibidem: nec vllos habiles homines, erga emendationem & reparationem dictarum viarum aut earum aliquam, ſiue aliquam inde parcellam: ſed inde tunc ibidem voluntarie fecit defal-tam: in dicti domini reg. contempt', ac cõtra formam diuerſorum ſtatutorum in huiuſmodi caſu prouiſorum & editorum.

Againſt a Goldſmith.

IVratores pro domino rege præſentant, quod A.B. de C. in dicto comitatu Aurifaber, ſecundo die Iunij, anno regni dicti domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & Hybernię Regis, fidei defenſoris &c. ſecundo, & Scotiæ, triceſimo ſeptimo, apud S. prædictam in comit. prædicto quoddam manubrium pugionis ferreũ (Anglicè dictum **a dagger hilt of yron**) cuiuſdam E.D. de S. præd. in comitatu præd. **Yeoman**, valoris duorum ſolidorum auro puriſſimo ad valentiam quinque ſolidorum deauratit, Anglicè, **did gild with the fineſt gold**, in magnum reipublicæ detrimentum, ac contra formam cuiuſdam ſtatuti in parliamento domini Hen. nuper Regis Angliæ quinti, tento ann. regni ſui octauo, in huiuſmodi caſu prouiſi ac editi.

For taking Pheſants and Partridges.

Vratores præſentant pro domino rege, quod W.G de S. in dicto comitatu **Labourer**, circiter horam decimam ante meridiem viceſimi diei Auguſti, anno regni dicti domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ regis, fidei defenſoris, &c. ſecundo, & Scotiæ triceſimo octauo in quodam loco infra parochiam de S. prædict. in comitatu prędicto (vocat' vulgaritèr **the wheat field**) qui quidé locus tunc fuit, & adhuc eſt liber' tenement' A.B. de S. prædict. in dicto comitatu generoſi nec vnquã fuit in, aut de Warrenn' ipſius W.G. propria) duos Phaſianos & decem Perdices cum quibuſdam retibus, & alijs ingenijs (valoris duorum ſolidorum) tunc ibidem cepit, occidit, & aſportauit, ſine aliquibus aſſenſu, aggreamento, aut ſpeciali licẽtia dicti A. B. in hac parte habitis aut obtentis: In dicti dom. Reg. nunc contemptũ, & contra formam cuiuſdam ſtat' in parliamento Dom. H. nuper Regis Angliæ, ſept. tento, in anno Reg. ſui vndecimo, in huiuſmodi caſu prouiſi & editi.

For not keeping watch in a towne.

Vratores pro Domino Rege præſentant, quod à decimo die Maij, anno regni dicti domini noſtri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ Reg. fidei defenſoris, &c. 2. & Scotiæ 37. vſque viceſimum diem menſis Iunij anno ſupradicto, homines & inhabitantes villæ de C. in comitatu prædicto, nullas vigilias à ſolis occaſu vſque ad ſolis ortum, in dicta villa de C. in comitatu præd. per aliquos homines fecerunt, aut cuſtodiuerunt, prout de iure & antiqua conſuetudine facere debent & ſolebant, in dicti dom. reg. nunc contemptum, ac contra formam cuiuſdam ſtatuti in parliamento Domini Ed. olim Regis Angliæ primi, apud Winton, anno regni ſui tertio decimo tento, in huiuſmodi caſu prouiſi & editi.

For not keeping watch at the Sea-side.

IVratores præſentant pro Domino Rege, quod vbi ho-
mines & inhabitantes hundredi de F. in comitatu præ-
dict. antiquitus (videlicet ante annum regni Domini Hen-
rici nuper Regis Angliæ quarti quintum) quaſdam ma-
ritimas & minutas vigilias, Anglicè vocatas Sea-watch
tempore belli per coſteram maris in quodam loco (vo-
to Sandgate) in dicto comitatu, per quatuor homines
ſingulis noctibus (à tempore in cuius contratrium me-
moria hominum tunc non exiſtebat) cuſtodire debe-
bant & ſolebant: dicti tamen hundredi de F. homines
& inhabitantes nunc, tempore nuper belli, viz. à vice-
mo quarto die Iunij, anno reg. dicti domini noſtri Ia-
bi, Dei gratia Angliæ, Franciæ, & Hyberniæ Regis, fidei
defenſoris &c. ſecundo, & Scotiæ triceſimo ſeptimo vſ-
que triceſimũ primum diem dicti menſis Iunij, anno
prædicto prædictas vigilias apud Sandgate prædictam
modo & forma prædictis, facere, & cuſtodire volunta-
prætermiſerunt & neglexerunt, ac in eiſdem vigiliis
ibidem (ſic vt præfertur faciendis ac cuſtodiendis) vo-
luntariam fecerunt defaltam, in dicti domini Regis con-
temptum, ac huius regni ſui Angliæ diſcrimen non
dicum, necnon contra formam ſtatuti in parliamento
cti Domini Henrici nuper Regis Angliæ quarti, te
anno regni ſui quinto prædicto, in huiuſmodi caſu
uiſi ac editi.

For converting a houſe to a Cottage, and for vpholding it.

IVratores pro Domino Rege præſentant quod 24.
Iulij anno regni domini noſtri Iacobi 2. & Scotiæ
quidam Io. Thurſtone de H. in dicto comit. Calcean
auſtralem partẽ cuiuſd. dom. māſionalis tũc & modo
iſtiu

entis in H. præd. in com. prædict. viz. vnam aulam, & 2. as ordinauit & conuertit, ad, & in contagiũ pro habitatione, viz. vt quidam Anth. Burton de H. pied, in com. prædicto Scissor, eadem australi parte dicti domus pro habitatione sua veteretur: qui quidem A. B. dictum illud tagium modo inhabitat. Vbi reuera dictus I. T. nunquã signauit aut adiecit dicto cotagio quatuor acras terræ cundam statutum, siue ordinationem de terris mensuandis computandas, de libero ipsius I T. tenemento, vel hereditate sua, prope dictum cotagium iacentes ac na cum dicto cogario continue occupandas, in magnũ cti domini regis contemptum, ac contra formam cuiusm statuti in parliamento dom. Eliz. nuper Reg. Angliæ nto apud Westmonasterium an. regni sui 31. in huiusodi casu prouisi ac editi. Et vlterius præsentant, quod rædict: Anth. B. ipsum idem contagium sic vt præfertur nuersum ac ordinatũ a dicto vicesimo quarto die dicti ensis Iulij anno 2. supradict' vsq; ad 2. diem huius præntis mensis Sept. an. 2. supradicto apud Halling præd. oluntarie sustinuit, munutenuit, & continuauit, in magum dicti domini regis contemptum, & contra formam atuti prædicti

Hitherto of Enditements and Presentments: for a further direction wherein, the Reader may haue recourse to the fifth Chapter of the fourth Book of the Eirenachia before: in which hee shall finde sundry rules for the right framing of them.

Processe vpon Enditements and Presentments taken out of the old Imprinted Booke of the Iustices of Peace.

Note that the Processe vpon an Enditement of Treason or Felony, is vsually:

A *Capias.*
A *Capias aliàs.*
An *Exigi facias.*

And in euery ſuch Capias there ought to bee three weekes ſpace betweene the Date and the Return thereof.

The *Capias* is thus.

IAcobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defenſor, &c. vicecomiti Kanc. ſalutem. Præcipimus tibi, quod non omittas propter aliquam libertatem in balliua tua, quin eam ingrediaris, & capias A. B. de C. in dicto comitatu Labourer, & eum ſaluo cuſtodiri facias; Ita quod habeas corpus eius coram nobis dibus pacis noſtræ, necnon Iuſticiarijs noſtris ad diuerſa felonias, tranſgreſſiones, & alia malefacta in dicto comitatu tuo perpetrata audiendum & terminandum aſſignatis, ad proximam generalem Seſsionem pacis comitatus tui poſt clauſum Paſchæ proxime futuræ tenendam (vbicunque in eodem comitatu teneri contigerit) ad reſpondendum nobis tunc ibidem de quadam felonia vnde indictatus exiſtit. Præcipimus etiam tibi, quod non omittas propter aliquam libertatem in balliua tua prædicta, quin diligenter iuquiras quę bona & catalla prædicti A. B. habet in balliua tua, & ea in manus noſtras ſeiſiri facias, vt vlterius inde fieri poſsit, prout de iure, & ſecundum legem & conſuetudinem regni noſtri Angliæ fuerit faciendum. Et habeas ibi tunc hoc præceptum. Teſte H Co. milite apud M. prædictam in comitatu prædicto 24. die Februarij, anno regni noſtri, &c.

The *aliàs Capias.*

IAcobi, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defenſor, &c. vicecomiti Kanc. ſalutem.

Præci-

cipimus tibi (ſicut alias tibi præcepimus) quod non
ittas propter aliquam libertatem in Baliua tua, quin
ingrediaris, & Capias A. B. de C. in comitat. tuo
bourer, and ſo word for word as the Capias **before**
nging the dates onely.

The *Exigifacias.*

Acobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hyber-
iæ Rex fidei defenſor, &c. Vicecomiti Kanc. ſalutem:
æcipimus tibi, quod exigi facias A. B. de C. in dicto
m. **Labourer,** de comitatu in comitatum, quouſque
cundum legem & conſuetudinem regni noſtri Angliæ
lagetur ſi non comparuerit, & ſi comparuerit, tunc e-
n capias & ſaluo eum cuſtodiri facias, ita quod habeas
rpus eius coram cuſtodibus pacis noſtræ, necnon Iu-
ciarijs noſtris ad diuerſa felonias, tranſgreſsiones, & a-
malefacta in dicto comitat. perpetrata audiendum &
rminandum aſsignatis, ad generalem ſeſsionem pacis
omitatus tui proxime poſt feſtũ Sancti Michaelis Arch-
ngeli proxime futuri tenendam (vbicunque in eodem
omitatu teneri contigerit) ad reſpondendum nobis de
uadam felonia vnde indictatus exiſtit, & vnde tu ipſe
mandaſti coram prętatis Iuſticiarijs noſtris (tali die &c.)
uod prętatus A.B. non eſt inuentus in balliua tua, &
abeas tunc ibi hoc Breue, Teſte H. C. milite, apud M.
n com. prædicto ſexto die Septembris anno regni noſtri
. Ad quem diem I. F. armiger, vicecomes comitatus
prędicti, retornauit, quod ad comitatum ſuum tentum a-
ud P. quárto die Maij. anno reg. Dom. regis nunc, &c.
(and ſo, ſhewing the dates of his other foure Counties)
prędictus A.B. exactus fuit, & non comparuit, & propte-
ia vtlagatus fuit.

The

The common Proceſſe vpon other Preſentments, not being in Felonie, nor ſpecially ſet forth in Statutes, as in that old booke declared to be, firſt:

A *Venire facias*, thus.

IAcobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defenſor, &c. vicecomiti Kanc. ſalutem. Præcipimus tibi, quod non omittas propter aliquam libertatem in balliua tua, quin venire facias A.B. de C. in dicto comitatu tuo Yeoman, coram cuſtodibus pacis noſtræ, necnon Iuſticiarijs noſtris ad diuerſa felonias, tranſgreſſiones, & alia malefacta in dicto comitatu perpetrata audiendum & terminandum aſſignatis, ad generalem Seſsionem pacis comitatus tui proxime poſt, &c. ad reſpondendum nobis ſuper quibuſdam articulis ſuper ipſum A.B. præſentatis, & habeas ibi tunc hoc præceptum. Teſte &c.

And if vpon this Venire facias the partie bee returned ſufficient, that a Diſtringas muſt goe out, and ſo the ſame Proceſſe infinite, vntill he come in, which is thus.

IAcobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hyberniæ Rex fidei defenſor, &c. Vicecomiti Kanc. ſalutem. Præcipimus tibi, quod non omittas propter aliquam libertatem in Balliua tua, quin eam ingrediaris & diſtringas A. B. de C. in comitat. tuo Yeoman, per omnia terras & tenementa &c. Et quod habeas corpus eius coram prefatis Iuſticiarijs, &c. ad reſpondendum, &c. Teſte &c.

But if Nihil habet be returned at the firſt againſt him, then a Capias.

An Aliàs Capias.
A Pluriès Capias, which hath no change but the word Pluries for Aliàs: & laſtly, an Exigi facias, muſt be awarded againſt him.

This is the generall Proceſſe: the ſpeciall muſt be ſought for in the eight Chapter of the fourth Booke of the Eirenarcha before, and in thoſe Statutes which do ſpecially appoint them.

A Superſedeas to ſtay the taking of one that is Endited of ſome Treſpaſſe or Contempt.

IAcobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hyberniæ Rex, fidei defenſor, &c. viceeomiti Kanc. ſalutem: Quia A.B. de C. in dicto com Yeoman, venit in curia noſtra coram H.C. milite, & ſocijs ſuis cuſtodibus pacis noſtrę, ac Iuſticiarijs noſtris ad diuerſa felonias, &c. aſſignatis, apud M. tali die, &c. Et inuenit ſufficientes manucaptores eſſendi coram præfatis Iuſticiarijs, ad proximã generalem ſeſſionem pacis in dicto comitatu tenendam, ad reſpondendum nobis de quibuſdam tranſgreſſionibus ſuper ipſum præſentatis. Ideo tibi præcipimus, quod de capiendo præfatum A. B. ſeu ipſum impriſonando, vel eum ea de cauſa aliqualiter moleſtando, omnino ſuperſedeas. Et ſi eum ea de cauſa & non alia ceperis, tunc ipſum ſine dilatione deliberari facias. Teſte prędicto H.C. milite apud T. prædictam, die & anno, &c.

A Superſedeas to ſtay the *Exigi facias* *vpon an Enditement of Felonie.*

IAcobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hyberniæ Rex, fidei defenſor, &c. Vicecomiti Kanc. ſalutem. Quia A.B. de C. in dicto comitatu tuo Yeoman, venit in curiam noſtram apud M. tali die &c. coram H. Co. milite, et ſocijs ſuis, cuſtodibus pacis noſtr', necnon Iuſti-

Iuſticiarijs, &c. ac ſe reddit priſonæ noſtræ (occa
quarundam feloniarum vnde coram eis indictatus eſt
in eadem moretur, ſicut nobis conſtat: Dr thus,
inuenit nobis ſufficiente manucaptionem eſſendi coram
præfatis Iuſticiarijs ad proximam generalem Seſſionem
pacis in dicto comitatu tenendã, ad reſpondendum
bis de quibuſdam felonijs, vnde coram eis indictatus
iſtit, ideo tibi præcipimus, quod de vlterius exigendo
fatum A B. ad aliquem comitat. tuum, vel eum imp
nando, ſiue ipſũ ea occaſione moleſtando, omnino ſup
ſedeas. Et habeas tibi hoc Breue. Teſte, &c.

Some other formes of Superſedeas **there be in the old booke, proceeding from one Iuſtice of peace which I doe pretermit, becauſe I ſée not how they be warranted at this day: Neuertheleſs the Precept following, I will draw from thence for others may aduiſe vpon it.**

For the remouing of a petite Conſtable.

IAcobus Dei gratia &c vicecomiti Middleſexiæ nec
capitali conſtabulario villę hundredi de W. & eorũ cu
libet, ſalutem: quia W.P. & R.S ſubconſtabularij villæ de
C. & K (certis de cauſis nos mouentibus) ab officio ſuo a
moueri & exonerari fecimus; Ideo vobis & cuilibet ve
ſtrum coniunctim & diuiſim præcipimus & mandamus
quod I.F. & R.M. ad omnia & ſingula eidem officio incũ
bentia benè & fidelitèr exercenda & exequenda (prout
ipſi nobis inde reſpondere voluerint) iurare faciatis; ſic
ctiſque W.P. & R.S. ſimiliter iniungentes, quod ipſi de dic
to officio vlterius exercendo & exequendo nullatenus
ſe intromittant, quouſque aliud de nobis habuerint man
datum. Et quicquid inde feceritis, Iuſticiarijs noſtris ad
pacem noſtram in dicto comitat. conſeruandam aſſigna
tis, ad prox. generalẽ ſeſſionẽ pacis apud C. in dicto co
mitatu tenendam, certificetis, hoc præceptum noſtrum
tunc & ibidem remittentes. Teſte T.M. vno Iuſticiariorũ
noſtrorum prædictorum, tali die, &c.

A Writ of reſtitution vpon the ſtatute 21. H. 8. c. 11. *to the owner of goods ſtollen.*

obus Dei gratia &c. I. F. Balliuo de M. in com'itat. no- Kanc' generoſo, ſalutem. Quia I.S. nuper de O. in comitatu **Labourer** nuper indictatus, reſtatus, & imo modo per patriam apud M. in comitatu prædi- oram H.Co. milite & ſocijs ſuis cuſtodibus pacis no- necnon Iuſticiarijs noſtris ad diuerſa felonias, trãſ- iones, & alia malefacta in dicto comitatu perpetra- diendum & terminandum aſſignatis, rat one eui- iæ per E.H. de L. in comitatu prædicto contra eun- I.S. datæ inuentus fuit culpabilis, de eo quod idem ſecundo die Maij, anno regni noſtri ſecundo apud O. dictam in comitatu prędicto, duas vaccas (coloris ru- ad valentiam trium librarũ) de bonis & catallis præ- G.H. adtũc ibidem inuentas felonicè cepit & abdux- eo tibi præcipimus pariter & mandamus, quod ſi bo- & catalla prædicta, vel aliqua inde parcella, ad manus deuenerunt, tunc tu bona & catall' prædicta eidẽ G. eliberari facias indilatè. Teſtibus præf. H.C. milite, & .arm' vno Iuſtic' prædictor' apud M. prædict. 24. die Sept. anno regni noſtri &c.

The returne of a *Certiorari*, ſent to remoouę an Enditement, may be thus faſhioned.

Firſt vpon the backe-ſide of the Writ of Certiorari, *endorſe theſe or the like words.*

Executio iſtius Breuis, patet in quadam Scedula eidem Breui annexa.

And

And that Scedule may be thus,

EGo A.B. vnus cuſtodũ pacis, ac Iuſticiariorũ. dom. ꝛ
gis, ad pacem in dicto com. Kanc. conſeruandam, ꝛc
non ad diuerſa felonias, tranſgreſſiones, et alia malefac
in eodem comitatu perpetrata audiendum & termina
dum aſſignatorum, virtute iſtius Breuis mihi deliber
indictamentum illud (vnde in dicto Breui fit mẽtio) ꝛc
cum omnibus idem indictamentum tangẽtibus, in Can
cellariã dicti domini regis, diſtincte & aperte ſub ſigil
meo certifico. In cuius rei fidem & teſtimoniũ, ego pre
fatus A.B. hijs preſentibus ſigillum meum appoſui: Da
tum die menſis anno regni, &c.

Then take the Record of the Enditement, and cloſe it within the Scedule, and ſeale them both vp toge ther.

FINIS.

BRITISH 16 NO 1909 MUSEUM

An Appendix, containing ſundry Precedents concerning the Peace, and matters within the authoritie of the Iuſtices of of the peace.

d firſt you ſhall find theſe Precedents, already ſet foorth the Bookes before, viz.

Page.

He Writ of King Edward the 3. for Proclamation of the Peace. 8 — Peace.

The Writ of King Ed. 1. for the making of an ordinarie Conſeruator of the Peace by election. 16 — Conſeruator of the peace.

Inquiſition of an ordinarie Cõſeruator of the peace by the Tenure of his land. 16

Writ of King H. the 3. for an extraordinarie Conſeruator of the peace 18

forme of the generall Commiſſion of the Peace at his day. 35 — Commiſſion of the peace.

forme of the two oaths of a Iuſt. of Peace, 53. & 95 — Oathes of the Iuſt. of peace.

Precept by a Iuſtice of peace, made out of a Supplicauit for Suretie of the peace. 76

Precept by a Iuſtice of Peace made *Ex Officio*, for ſuretie of the Peace. 85. & 87

Superſedeas touching the peace made by a Iuſtice of the peace 67. & 98

Recogniſance for the peace to be kept. 105. & 106

returne (made by a Iuſtice of peace of a Supplicauit for the peace. 107

returne of a Certiorari, touching a recogniſance for the peace. 108

form of a releas of ſurety of the peace, by the party 112

maner of the precept by a Iuſtice of peace for the good Abearing 121

Recog. taken for the good Abearing. 122 — Surety of the good abearing.

Recording of a Force, by a Iuſtice of the peace. 149 — Forcible entries and holdings.

Mittimus to the Gaole, of him againſt whom the force is Recorded 150

precept from a Iuſtice of peace to the Sherife, for warning

ning a Iurie to enquire vpon a force.
The Inquisition (or presentment) of such a Iury ... ing the Force.
The warrant by a Iustice of peace for Restitution to ... made of a possession Forciblie holden
Writ vpon the Statute of Northamptō. The maner of the Proclamations to be made in exec... on of the Writ vpon the Statute of Northampton.
The returne of the writ vpon the stat. of Northamp...
Rebellious Assembly. The forme of the Proclamation against a rebellious ... sembly.
Informer against a felon. The bond & condition thereof, taken of him that gi... Information before a Iust. of P. against a Felon.
Felon. The mittimus of a Felon (after his Examination) to ... Gaole.
Shooting in a gunne. The maner of the Recording of the shooting in a ... gun, and of the Mittimus of the shooter therein to ... Gaole
Riot. The order of Recording a Riot by the Iust. of P. and ... Sherife, &c.
The precept for sommoning a Iurie to enquire of a ...
The forme of the Inquisition (or presentment) of a ... by the Iurie.
Bailement. The forme of a bailement of a Felon
The manner of the Liberate, after the baile taken.
Alehouse. The condition of a Reconisance for good rule in an ... house.
Quarter Sessions. The Precept for sommoning the Quarter Sessions of ... Peace.
Trauerse. The whole Record of the Trauerse of an Endictment ... fore Iust. of the peace.
Estreates. The Title (or stile) of the Estreats of the Session of ... peace to be sent into the Exchequer
Speciall Sessions. The Precept for summoning a speciall Sessions of ... Peace.

BRITISH MUSEUM

A TABLE OF ALL

the principall matters and words

contained in this Booke of the Office

of Iustices of Peace, obseruing the

Alphabeticall order

¶ Abiuration 425.
¶ Accessaries.
FOr Felonie 282
By the Common law 282
How many sorts of them 283
By Statutes 284
the offence 286. & 429
the offence 289. & 429
sarie to an accessarie 291
erson principal and accessary 292
ceiuing of Felons 293
¶ Action.
ght before the Iust. of peace 512
¶ Action of trespas.
lawking in anothers ground 417
¶ Additions.
rors must be returned 432
litements 488. 489. 490
formations 491
¶ Aduantage of the King 340
¶ Affray
not broken without an affray 225
ence betweene an Affray and an
ault 226
riuation thereof 225
utie of lookers on 130
utie of an Officer that seeth or
reth it. 132
vpon a Iustice 134
vpon an Officer 234
re the Affrayer must be impriso-
d 133
The Officer may command assistance,
&c 134
¶ Aqua Dei, and other Romish
superstitions 413
¶ Alehouses 190. 197. 350. 358. 370.
459. 524. 529. 571. 574. 607
See Forfeiture
Addition augmenteth the number
of Iustices of Peace 233
¶ Amercements.
Notwithstanding offer of trauerse 238
Of the Sheriffe for returning the Writ of
Restitution 37
In Countie Courts 360
One Iustice may not amerce his com-
panion. 385
¶ Apparance.
Who ought to appeare at the Sessions 385
¶ Apprentises, Seruants, and Labo-
rers 161
See more in Labourers
¶ Approuements 551
¶ Archerie 481. 482. 484. 614
¶ Arrest
Not without request. 91
No arrest without warrant 91
The Iustice refuseth to bind him after
arrest. 91
What arrest is. 92
What persons may be arrested 93
What Ecclesiasticall persons may be ar-
rested 93
The end thereof 93
How it may be discharged 95

Made by the seruants of the Iustices 181
See Gaole
¶ *Aristotles* counsel in making Lawes 57
¶ *Arraignement*
Of a prisoner after dismission 540
The diuersitie betweene arraignement and trauerse 546
Whereof it commeth 565
¶ *Armie*, and how many men make an Armie 183
¶ *Armour* 424.432.537
Of Recusants 617
¶ *Atificers. See Labourers.*
¶ *Assault*, What it is 126 See more in *Batterie*
¶ *Assise of Bread and Ale* 459
¶ *Assise of Fewell* 196
¶ *Assise of Fishes* 454
¶ *Assistance*
Two Iustices to resist Riots 310
¶ This word (*at*) taken for (after) 600
¶ *Attachment* against a Iustice, and why 99
¶ *Auerment* may not be taken against a Record, and why 63
See more in *Trauerse*
¶ *Authoritie* naturall & ciuill 127

B

¶ *Badgers, Drouers, &c.* 610
¶ *Bailement* 340
Difference betweene baile, mainprise, and repleuin 340
Whereof they be deriued 340.341
What Felons are bailable 342
What persons are bailable 345
And what not 346
Manslaughter bailable 346
Of him that is acquite within the yeare 347
A rule concerning bailements 347
What Iust. may baile Prisoners 348
Offences and offendors not bailable 344.349.350.&c.
Baile granted contarie to Law 373
The forme of bailments 351
¶ *Bailifes* must attẽd the Sessions 397
¶ *Bailifes of Liberties* 411
¶ *Bakers* 459
¶ *Barke* 453
¶ *Barretor* defined 440
¶ *Bargaine and sale* 369
¶ *Bastardie* 350.357
How it might be preuented or punished 119
¶ *Batterie*
Without breach of the Peace 119
By a Constable 118
In defence of himselfe or an other 119
By the seruãt of his master or dame 120
¶ *Bath and Buckstone. See Licence.*
¶ *Beere* 455
¶ *Bearewards. See Licence.*
¶ *Beggers childe* 614
See more in *Rogues*
¶ *Bigamie* 580
¶ *Bill of exception* 580
¶ *Borowhead, Borsholder, and Tythingman* 111
¶ *Bowstaues* 580
¶ *Bowyers* 580
¶ *Bracton* reduced the Law into latine 580
¶ *Brasse and Pewter* 611
¶ *Breach of the Peace* 124. and no breach of the Band 125
Wherein it consists 110
Not without an array 114
Without a multitude 115
By Rape, Manslaughter, Burglarie 117
With a multitude. *See Riots, &c.*
¶ *Brewers* 455.456
¶ *Bridges* 227.236.
¶ *Buckstals, Deerehayes, and pitfalls for king* 335.336
¶ *Buggerie* 227.236.
¶ *Buls from Rome. See Treasons. Premunire*
¶ *Burgesses*, what it is, looke *Burglarie.* 238.
Burglarie
What it is, and whereof it commeth 238
Difference betweene it and robberie 238

the time 259. the place 260. the manner 261. the ende 264. Enditement thereon 259
¶ Burning of houses 366. 434
¶ Butchers 455. 482
¶ Buyers of woole &c 487
¶ Butter and Cheese 455. 456
¶ Calues and Kine 455
¶ Captaines 483
¶ Cattell 452. 453. 456
¶ Certificate
Of an Enditement of Felonie 517
Of selling Corne 199
To the King and Counsell 330
For him that shall be bound apprentice 395
Of plaints into the Exchequer 373
Of a Riot 391
Of a Recognusance 109
How it must be made 519
By whom it must be sent 518
Triall by certificate 537
By the Iustices of Peace 587. &c.
¶ Challenge of the Iurors 554
¶ Champ rties, see Conuenticles
¶ Champertie defined 441
¶ Chance medley, See Homicide
¶ Charge at the Sessions
The auncient order thereof 405
The points thereof diuided 406
The maner thereof 407
Of Ecclesiasticall causes 410. &c.
Of Lay causes 420
¶ Chastisement
For whom it is lawfull 127
See Master, Schoolmaster, Gaoler.
¶ Chiuage, or Chiefage 478
¶ Church and Churchyard
Those that repaire not to the Church 417
Church robbers 420. See Felonie.
Fighting in Churches or Churchyards 419
Faires and Markets in Churchyards 419
¶ Churchwardens 437. 438
¶ Cicero his aduise to Iudges 58
¶ Clergie
If the Ordinarie be present 551
Graunt able but once 563
Taken from Witches & Coniurers 564
What offences more are not capable of Clergie 563. 564 &c.
A consideration touching Clergie 566
¶ Clerke of the Peace
His dutie and office 393
His fees 436
His nomination 394
¶ Clerke of the Iustices 438
¶ Clerke of the Market 436
¶ Cloth 331. 359. 369. 373. 469. 470
Ouerseers of Cloth 332. 369
¶ Cods, or Ling in Caske 457
¶ Coherton defined, and why it is vsed 59
¶ Colledge
Of Iesuits &c. 335
Of Phisitians 378
¶ Commission of the Peace
For diuers Shires 21
Forme thereof 35
When it was first deuised 6
Deuided into three parts 44
How it may be suspended or determined 67
It shall not be shewed 388
Who shall keepe it 387
¶ Condition
For the good abearing 113
Of the recognusance of the peace, whereon it standeth 114
Of a recognusance to endite a felon committed 216
Of a Recognusance for Alehouse keeping 354
¶ Confederacie
See Conuenticles
¶ Confession
Free 519
Forced 538
¶ Congruence
Recognusance taken by Congruence 186
Processe awarded 520
Heare and determine 542
¶ Coniuration 415

Made by the seruants of the Iustices 181
See Gaole
¶ *Aristotles* counsel in making Lawes 57
¶ *Arraignement*
Of a prisoner after dismission 540
The diuersitie betweene arraignement and trauerse 546
Whereof it commeth 565
¶ *Armie*, and how many men make an Armie 183
¶ *Armour* 424.432.537
Of Recusants 617
¶ *Atificers. See Labourers.*
¶ *Assault*, What it is 126 See more in *Batterie*
¶ *Assise of Bread and Ale* 459
¶ *Assise of Fewell* 196
¶ *Assise of Fishes* 454
¶ *Assistance*
Two Iustices to resist Riots 310
¶ This word (*at*) taken for (after) 600
¶ *Attachment* against a Iustice, and why 99
¶ *Auerment* may not be taken against a Record, and why 63
See more in *Trauerse*
¶ *Authoritie* naturall & ciuill 127

B

¶ *Badgers, Drouers, &c.* 610
¶ *Bailement* 340
Difference betweene baile, mainprise, and repleuin 340
Whereof they be deriued 340.341
What Felons are bailable 342
What persons are bailable 345
And what not 346
Manslaughter bailable 346
Of him that is acquite within the yeare 347
A rule concerning bailements 347
What Iust. may baile Prisoners 348
Offences and offendors not bailable 344.349.350.&c.
Baile granted contarie to Law 373
The forme of bailments 343
¶ *Bailifes* must attend the Sessions 397
¶ *Bailifes of Liberties* 411
¶ *Bakers* 433
¶ *Barke* 453
¶ *Baretter* defined 440
¶ *Bargaine and sale* 399
¶ *Bastardie* 358.377
How it might be preuented or punished 119
¶ *Batterie*
Without breach of the Peace 119
By a Constable 121
In defence of himselfe or an other 119
By the seruāt of his master or dame 401
¶ *Bath and Buckstone. See Licence.*
¶ *Beere* 433
¶ *Bearewards. See Licence.*
¶ *Beggers childe* 614
See more in *Rogues*
¶ *Bigamie* 394
¶ *Bill of exception* 540
¶ *Borowhead, Borsholder, and Tithingman* 111
¶ *Bowstaues* 463
¶ *Bowyers* 463
¶ *Bracton* reduced the Law into Latine 11
¶ *Brasse and Pewter* 433
¶ *Breach of the Peace* 124. and no breach of the Band 125
Wherein it consisteth 126
Not without an affray 127
Without a multitude 128
By Rape, Manslaughter, Burglarie 129
With a multitude. *See Riots, &c.*
¶ *Brewers* 433.434
¶ *Bridges*
¶ *Buckstals, Deerehayes, and pulking* 533.617
¶ *Buggerie* 227.236.
¶ *Buls from Rome. See Treason. Premunire*
¶ *Burgesses*, what it is, looke *Burglarie.*
Burglarie 237
What it is, and whereof it commeth 238
Difference betweene it and robberie 239

the time 259. the place 260. the manner 261. the ende 264. Enditement thereon 259
¶ Burning of houses. 606. 424
¶ Butchers 453. 482
¶ Butter to sweete 437
¶ Butter and Cheese 455. 456
¶ Calues and Kine 455
¶ Captaines 483
¶ Cattell 452. 453. 456
¶ Certificate
Of an Enditement of Felonie 517
Of selling Corne 199.
To the King and Counsell 350
For him that shall be bound apprentice 385
Of plaints into the Exchequer 373
Of a Riot 391
Of a Recognusance 109
How it must be made 517
By whom it must be sent 518
Triall by certificate 537
By the Iustices of Peace 587. &c.
¶ Challenge of the Iurors 554
¶ Champ rties, see Conuenticles
¶ Champertie defined 441
¶ Chance medley, See Homicide
¶ Charge at the Sessions
The auncient order thereof 405
The points thereof diuided 406
The maner thereof 407
Of Ecclesiasticall causes 410. &c.
Of Lay causes 420
¶ Chastisements
For whom it is lawfull 127
See Master, Schoolmaster, Gaoler.
¶ Chiuage, or Chiefage 178
¶ Church and Churchyard
Those that repaire not to the Church 417
Church robbers 420. See Felonie.
Fighting in Churches or Churchyards 419
Faires and Markets in Churchyards 419
¶ Churchwardens 437. 438
¶ Cicero his aduise to Iudges 58
¶ Clergie
If the Ordinarie be present 551
Graunt able but once 563
Taken from Witches & Coniurers 564
What offences more are not capable of Clergie 563. 564 &c.
A consideration touching Clergie 566
¶ Clerke of the Peace
His dutie and office 393
His fees 436
His nomination 394
¶ Clerke of the Iustices 438
¶ Clerke of the Market 436
¶ Cloth 331. 359. 369. 373. 469. 470
Ouerseers of Cloth 332. 369
¶ Cods, or Ling in Cake 457
¶ Coherion defined, and why it is vsed 59
¶ Colledge
Of Iesuits &c. 335
Of Phisitians 378
¶ Commission of the Peace
For diuers Shires 21
Forme thereof 35
When it was first deuised 6
Deuided into three parts 44
How it may be suspended or determined 67
It shall not be shewed 388
Who shall keepe it 387
¶ Condition
For the good abearing 183
Of the recognusance of the peace, whereon it standeth 114
Of a recognusance to endite a felon committed 216
Of a Recognusance for Alehouse keeping 354
¶ Confederacie
See Conuenticles
¶ Confession
Free 519
Forced 538
¶ Congruence
Recognusance taken by Congruence 186
Processe awarded 520
Heare and determine 548
¶ Coniuration 415

See Felonie

¶ *Conspiracie*
Punishment thereof 61
Iudgement therein 61
By a Iustice of peace 506
Vpon Informations 507

¶ *Constitutions of the Peace*
Who they are at the Common law 11
By other Offices 12
The King the chiefe 12
Coroners in their Counties 13
Ordinarie, by prescription, election, or tenure 13.16
Extraordinarie 17
By the Kings commission 20
They had no Iurisdiction but cohertion only 59

¶ *Constable* 437.438
His authoritie by the Common law 15
What Felons he may baile 15
He must obey the Iust. warrant 650
Whom he may arrest 119
His fine for a voluntarie escape 134
¶ *Conuenticles*, of what sort they be 173
What is contained vnder the word *Conuenticles* 173
¶ *Corne* 201
Transported 455.610
¶ *Coroners*
The offices at Sessions 394
Refusing to doe his office 434
¶ *Corporall punishments* 60
¶ *Cottages* 476
¶ *Countie Courts*
When they be holden 504
Plaints in them 281
¶ *Crossebowes and Hanguns* 296.373.480.608
¶ *Curriers* 465
¶ *Custos Rotulorum*
Nominated by the L. Chancellor 29
His attendance vpon the Iust. 387
His Office and authoritie 387
The gift of his Office 391
¶ *Cutpurse* 270.422
¶ *Cutting out of tongues* 420
See Felonie
¶ *Cutting of a pondhead* 446

D

¶ *Deane & Deanerie* 197.
¶ *Death*
Of him which procured an arrest 95
Of the King 113
Of the Recognisor 113
Of him at whose suite the Recognisee was taken 113
Of the Sureties 113
Of the Iustice before restitution 117
¶ *Demurrer* 529
¶ *Deniall of an offence* 533
¶ *Deputie*
A Iudge of Record may not make a deputie 64
¶ *Diers.* *See Cloth*
¶ *Discontinuance of Processe*
By new Commission 9
¶ *Disturbing.* *See Preachers*
¶ *Discretion*
Defined, and how it must be vsed 518
¶ *Drawlatches* 711
¶ *Drunkennesse* 417

¶ *Ecclesiasticall causes* 419
Which are Treasons, Misprisions of treasons, and felonies 411.412.
See more in Felonie and Treason
¶ *Egges of wilde foule* 418
¶ *Egyptians* 195.221.371.418
See Felonies and Rogues
¶ *Enditements*
Before one warden of the peace only 251
Of Burglarie 258
Of petite Larcenie 272
What an Enditement is, and where it commeth 486
Difference betweene it and a presentment 485.486
When they must be commenced 487
Five things requisite in them 487
Name and surname in an Enditement 488

Additions

Additions of estate, degree, &c. in them 488
Place whereof the partie is or was 489
Alias dictus 490
Day, yeare, and place of the offence committed 491
Computation of the yeare of our Lord God 492
Place and Countie wherein the offence was done 494
Name of the person to whom the offence was done 494
Of the goods of the Church 495
Goods of the Parson 495
Goods of a Corporation 495
Goods of Executors 496
Inditement, *Quod A. furatus est unicam hominis ignoti* 496
Coate armour in a Church 496
Graue stone 496
Of goods taken from a Trespassor 496
Goods bailed 496
Name and value of the thing taken 496
Of things liuing or dead, diuersitie 497
Pretij & non ad valentiam, & econtra 497
Coine and Money 497
The maner of the fact &c. 498
Nature of the offence 500
Of Extortion against an Ordinarie 499
Against an Accessarie 500
Of Treason 500
Of Burglarie 501
Of Murder 500
Of Felonie 501
For taking of Trees 501
Of Rape 501
Of Mayheme 502
Of Trespasse, or Felonie 502
Of Forcible entrie 502
Contra formam Statuti 502
To bee receiued or reiected by Iustices 504
In the Sherifes Turne 504, 521
In Leetes or Lawdaies 505
For killing of a Hart 503
The dutie of Iustices about them 506
Discontinuance of proces of the Inditements 520
¶ *Enquirie*
Vpon Forcible entries 511
Enquire and not determine 514
Enquiries of Riots 521
¶ *Epilogue* 635
¶ *Escape* 529
Of him that maketh an Affray 534
Of a person arrested 446
See Felonie
¶ *Escheator* 429
See Trespas
¶ *Estoppel by confession* 530
¶ *Estreates*
How they must be leuied 579. 582
For the wages of the Iustices 588
¶ *Example*
Euill examples doe oftentimes follow of good Lawes 532
¶ *Examination*
Of Felons, when it began 213
Vpon oath 203
The trialt hereby 534
¶ *Exactions*
For the King 593
For the Informer 583
¶ *Extortion of Fees* 434
See Trespas

F

¶ *False imprisonment*
See Arrest
¶ *False tokens* 535
¶ *Fares* for Horses 492
¶ *Felons*
Reserued till the Gaole deliuerie 386
¶ *Felonie*
Discoursed 220
Diuided, *See the Table* 224
The right vse of the word Felonie 211
So called *a felle animo* 222
Publique 226
Against the King 226
Against the common Wealth 227
Coniuration and Witchcraft 227. 364
Eggerie 227

Receiuing of Iesuits &c. 227.414
Rebellious assemblies 227
Practising the Art of Multiplication of gold or siluer 227
Masons congregating in Chapters 227
Souldiours departing from their Captaine 227
Conueying Sheepe beyond Seas 227
Plague 227
Ægyptians 227
Roagues 228.427
Breach of Prison 228.427
In the Gaoler 228
Blanke Monies 231
Imbeziling of Records 231
In Purueyors 231
In Sectaries refusing to abiure &c. 231
Priuate Felonies diuided 227
In Physitionor Surgeon vnskilfull 240
Cutting out of tongues, or putting out eyes 256
Taking violently away maide, widow, or wife 256
Vnlawfull abuse of a woman childe 256
Marrying in the life of the first husband &c. 256
Rauishing of women 256
Burglarie 258
Robbing a house, booth, or tent 264
Burning of houses 266
Robberie 266
Cutpurse 270
Stealing moueable goods 273
Taking domesticall pullin 274
Taking Pigeons, or yong Hawkes 274
Taking of Fish kept in Trunke, &c. 274
Taking of a tame Deere 275
Clipping of Sheepe, & taking the skins 275
Cutting of Wood or Corne 276.302
Cutting downe a tree one day, and carrying it away another day 276
Stealing his owne goods 277
Taking fruit, trees, or corne not growing 276
Departing out of the Realme to serue a forreine Prince 226.412
Taking Plate out of a Tauerne 281
Seruants spoyling the goods of their deceased Master 283
Robbing Church or Chappell 258.279
Felonies omitted in the Charge 428
Felonies not triable before Iustice of the Peace 548
¶ *Fences See Licence*
¶ *Fines.*
For the King 371
The Sheriffe is accomptable for all fines 374
Imprisonment for the fine 374
Where fit commeth 374
Difference betweene a Fine and Amerciament 374
By whom it must be assessed 374
At the Kings will and pleasure 374
They ought to be reasonable 374
They must be assessed openly 374
¶ *Fish & Fishermen* 439
Fish transported 455
Bought of a stranger 456
Setting price on sea fish 457
¶ *Fishdaies* 458
¶ *Flesh* 458
Forbidden in Lent, Fridaies, &c. 458
¶ *Forcible Entrie* 142
The Statutes thereof 136.137.&c.
Forcible detaining 145.148
Two sorts of force 140
What one Iustice may doe in it 135
By distrayning 144
What it is 142
Committed by one person alone 142
Of a common, or Rent 146
To an vse and agreement thereto 144
Holding out with force after three yeres possession 158
The fine thereof, and by whom it shall be assessed 158
Vpon the Statute of Northampton 147
Force of weapons 143
Precept for it. *See Venire facias*
¶ *Forfaiture*
By the Iustices of Peace for not giuing notice to the Lord Chancelor of their insufficiencie of lands 31
Onely pardonable by the King 111

¶ Recognusance for the Peace 227
See Breach of the Peace
¶ recognusance by an Alehouse keeper 524
The mitigation thereof 577
Iustices of Peace vpon Statutes 370. 371. &c.
¶ *Forestalling and Forestallers.* 342. 607
What a Forestaller is 459
¶ *Forresters* killing offendors within their charge 221
¶ *Foure Cardinall vertues* 406
¶ *Fresh suite*
To Arrest an Affrayor 134
After a Robberie 185
¶ *Frie of Fish* 190. 203. 454. 576
¶ *Furtum*
Defined by *Bracton*

G

¶ *Gaole and Gaoler.*
Who may make a Gaole of his owne house 133
Whether the partie arrested shall bee sent 92
Difference betweene a Gaoler and a Constable 133
A Gaoler may chastice his vnruly prisoners 172
A Gaoler handling straightly his prisoner 420
Denying to receiue Felons 434
Goldsmiths and Gilding 476
¶ *Good abearing.*
Wherein it consisteth 115. 116. &c.
Granted by one Iustice alone 120
For haunting suspected houses 119
Difference betweene it and suertie of peace 116
Of whom it may be taken 118
The forme of the Precept 121
The forme of the Recognusance 122
See more in *Suertie*
¶ *Gunnes. See Crosbowes*
¶ *Gunners.* 227. 427

H

¶ *Habeas corpus* 344.
¶ *Hares traced* 447. 448
¶ *Harueſt time* 475
¶ *Hawkes imbeZelled* 423
¶ *Hawkes egges* 446. 535
¶ *Hawking in Corne* 447
¶ *Hawking untimely* 335
¶ *Hay and Oates* 473
¶ *Hearing. See Triall*
¶ *Hedgebreakers* 500
¶ *Herring. See Fish.*
¶ *Highwayes* 609
Superuisors of the mnst present, &c. 301
In Kent, Sussex, Surrey, 301. 358. 478
Changing of a high way 332
Money guen for repairing them 366
No bushes within 200. foote of the 440
Who must appoint Ouerseers of them 477
Inquirable in the Sessions 440. 609
¶ *Homicide* 232
Commanded by Law 233
Alowed by Law 234
By Chance-medley 247. Why so called 248
In his owne defence 253
By misaduenture 254
¶ *Horses and Mares*
Put away by Souldiers 193. 483
Vnder 14. handfuls hie 483. 535. 608
Vntolled for after buying 473
¶ *Horsebread,* 473
¶ *Hospitall* 356
Hunting 446. 449. 607
By night 191. 434. 607. 449
See Felonie.
¶ *Husband.*
May haue suertie of Peace against his wife 79
Huy and Crie 202. 439
¶ *Iesuits and Seminarie Priests* 198. 199. 372. 414. 563
See Felony.
Their submission 335
383
¶ *Ina* King
¶ *Inditements.* See Inditements.
¶ *Incest*

¶ *Infesto*
The exposition thereof 491
¶ *Information*
By priuate men 508
Free and voluntarie 509
Information forced 420
Processe thereupon 511
¶ *Informer and Promoter* 439
609
¶ *Ingrosser*
What is the signification thereof 451
¶ *Inholder* 456.459
Must sell no litter 473
Must bake no horsebread 473
Must sell Victuals reasonable 453
¶ *Inmates* 479.681.674
¶ *Inrolments* 196
¶ *Inter pares non est potestas* 380
¶ *Iron worker* 301.473
¶ *Issues*
Lost by Iurors. 61
¶ *Iudgement*
What things are required therein 568
Arbitrarie. 569
Prescribed 569
Of Conspiracie 61
Of such as vse false tokens 569
Of seruants making assault vpon their Masters, &c. 569
Of Treason 570
Against Murder, and other felonies. 570
For conueying Sheepe beyond Seas 371
For taking Deare, &c 151
For keeping an Alehouse contrarie to the Statute 571
¶ *Iuglers. See Licence.*
¶ *Iuror, and Iuries*
Which be not *Probi & legales homines.* 396
Per quos res veritas, &c. 397
Shall haue Action against the Sheriffe, 397
Generall and particular 398
De circumstantibus 390
Not sworne 399
The number of them 400
Their concealments 301
Taking reward
Challenge of them
¶ *Iustices of the Peace and Quorum.*
Who they be, and why so called
Why they were ordained
When they tooke that name
Chiefe Iustice termed
and why
Why Iustices of the Quorum were
Diuersitie betweene Iustices by Commission and Patent.
By whose authoritie they be appointed
They are Conseruators of
Their nomination of them
Their Oath
What lands they ought to haue
What manner of men they ought
How many must be in euery
When their power ceaseth
They bee ouerladen with Statutes
Their power comprehended in
clauses of the Commission
Their power limited and absolute
Their iurisdiction and cohertion
They be Iudges of Record
Iustice of the Peace, & afterwards
Duke, Earle, &c.
The power of one Iustice alone
How many may hold a Sessions of
peace
When they be but Ministers, and
Iudges
Whether a Iustice may make a Precept returnable before himselfe
Their rewards and punishments.
Reward.
His authoritie at an assay,
What Enditements he may receive
what not
How they shall take knowledge of
fes at the Sessions

Their authoritie in Sessions equall 385
The power of two Iustices of P. 309
¶ *Iustices in Eire.*

K

¶ *King*
Ed. the third deprined his father 19
He first created Wardens of the P. 7
King *Ina* his Lawes against Theeues 283
Is the fountaine of Iustice. 213

L

¶ *Labourers and Seruants.*
Put away, or departing before the ende of his terme. 456. 474
Their Testimoniall of departure 474
Refusing to serue 473
Not retainable for lesse then one yeere 473
Vndertaking worke, and not finishing it 474
Their wages 474
Assaulting Master or Dame. 474
See Apprentices.
¶ *Larcenie* 422
Whereof it is so called 271
What it is 272
In what manner it is committed 277
¶ *Lay causes;*
What Lay causes are Treasons, petite Treasons, and Felonies in Lay causes. 415. 416. &c.
¶ *Leather*
Forestalled 442
How it must be tanned 467
Searchers and Sealers thereof 467
¶ *Licence*
To begge for fees. 326
For Rogues 303
For sicke persons to trauell to Bathe or Buckstone. 332
To transport victuall 349
For Pedlers, Minstrels, &c. 442
To eate flesh. 438. 458
For Badgers, Drouers 610
¶ *Liueries* 349
¶ *Logwood* 381. 613

M

¶ *Maria*, the former husband or wife liuing. 428
¶ *Masons. See Felonie*
¶ *Maineprise See Bailement*
¶ *Mayheme* 429
¶ *Malt* 202. 332. 613
¶ *Manslaughter*
Containeth all felonious homicide 228
No breach of the peace 129
Vpon premeditate malice, murder 236
See Homicide.
¶ *Masse* 412
¶ *Master*
May chastice his seruant 127
¶ *Meane Acts*
Between the making of the Commission and notice thereof 69
¶ *Metonymia* 3
¶ *Minstrels. See Licence*
¶ *Misprision of Treason. See Ecclesiasticall and Lay causes*
¶ *Mitigation.* 577. *See Forfeiture*
¶ *Mittimus*
To send the prisoner to ỹ gaole 220. 297
What it must containe 297
To send Rioters to the Gaole 321
¶ *Mortuarie* 434
¶ *Multiplication of gold and siluer* 227. 435. *See Felonie*
Murder
What it is, 236 Difference betweene it and manslaughter 237. To kill a known officer 240. A harlot killing her yong child 240. Gaoler ouerhard keeping his prisoner 240. The sonne carying his father into ỹ cold 240. Officer beheading him that is adiudged to be hanged 240. A theefe killing him who he neuer saw 241. A man comanding his seruant to beat another 241. killing

ling the owner of an Orchard 241. Riotters killing of them that ayde the Sheriſe 241. Shooting at one, and killing another 242. Killing a ſeruant fighting in his Maſters defence 242. Wilfull poyſoning 242. Abetting a murder 243. In Hunters 243. Difference betweene it and petite Treaſon. 244. A man killing himſelfe 247

Muſters 349.483.583

N

¶*Names of dignitie* 488

¶*Next Iuſtices*

The expoſition thereof 326.327

¶*Noble.* Who be ſo accounted 539

¶*Notice.*

Given to the Lord Chauncellour by the Iuſtice of P. of his inſufficiencie 31

The old Commiſſioners muſt haue notice &c. 65

O

¶*Obligation*

Touching the King and the forme thereof 102

¶*Office of the Iuſtices* 50

¶*Officers and their miſdemeanors* See Treſpaſſe

¶*Ordinarie*

His duetie at the Seſſions 395

Is not Iudge, but Miniſter 396 See treſpaſſe

¶*Originall writs*

The forme of them by *Glanuill, Bracton*, and at this day 304

¶*Oth*

Of Allegeance 56.199.336.362.363 516

Of the Supremacie 55

Of the King at his coronation 6

Of a Iuſt. of P. See Iuſtice of peace

In what caſes it may be required 213

The commoditie of it 215

Of Vnderſheriſes 356,433

When Iuſt. of P. were firſt ſworne 52

Taken by *Dedimus poteſtatem* 53

By whom it was firſt made 55

Of him that demandeth ſuertie of peace 83

Of the ſuerties for their abilities 100

Of the Iudges to excuſe a fault 618

P

¶*Pardon*, Generall 559

Speciall 561

Of all felonies, diſchargeth not murder 561

¶*Parſon, Vicar, &c.* See Treſpaſſe.

¶*Partridges, Feaſants &c.* 200. 333. 334.335.351.352.447.601

¶*Parkers.* See Forreſters

¶*Peace*

The ſignification thereof 5.8.&c.

Inward and outward &c. 5

Taken for protection or defence 6

Statutes for maintaining thereof 9

The Conſeruation thereof, and wherein it ſtandeth 10

¶*Pedlers.* See Licence

¶*Peeres.* See Triall

¶*Penall lawes* 227

¶*Periurie* 416.585.609

¶*Petite larcenie* 272

Of what things it may bee 273

What perſons are chargeable in it 282

¶*Petite treaſon*

Why ſo called 245

If a Clerke kill his Prelate 245

A wife kill her husband, or ſeruant his maſter 245

Differenee betweene it and murder 246

¶*Phiſitians* 578

¶*Plague* 197.227.337.495.609

¶*Plaies and Plaiers* 391.394.442

¶*Plaints in Countie Courts* 201

¶*Popes power* muſt not bee extolled 411.609

¶*Populus* containeth al the Liege 612.630.631

¶*Poore people*

Citie or towne ſurcharged with them 611

They

They muſt be ſet to worke 194 208. 360
Refuſall to giue to the poore 294
How the money giuen to the poore is beſtowed 366
¶ *Powdike* 428
¶ *Power of the Countie*
What it is 314
How long it muſt be attended 315
¶ *Poſſeſſion* actual, & in law only 153
¶ *Poyſoning* 242
See murder
¶ *Preachers*
Diſturbers of them ſhall be arreſted 333
Impriſoned 195. 333
¶ *Precept.* For the Peace 85
See Warrant
¶ *Premunire*
Extolling forraine power 410
Promiſe obedience to the See of Rome 412
Refuſing the oath of his Maieſties Supremacie 411
Bringing from Rome *Agnus Dei, &c.* 414
¶ *Preſentment*
What it is, and whereof it commeth 485 486
It differeth from an Enditement 485
Made by a Iuſtice 508
By a Conſtable 508
By ſearchers for making Tile 508
See Trauerſe
¶ *Prieſts See Ieſuits*
¶ *Priuie Seſſions*, and inconuenience thereof 188
¶ *Priuiledge of the ſeſſions* 402
¶ *Priſoners*
Collection in churches for their relief 475
¶ *Priſonment* defined 228
¶ *Priſon* broken 228
¶ *Proclamation.*
To remoue force 168
To ſtay an affraie 132
To diſperſe a Riot 183
Read at euery Seſſions of the peace 510 615. 633

¶ *Proceſſe.*
Vpon Information 509. 519. 524
Whereof it is named 519
Authoritie to make out proceſſe 520
In whoſe name it muſt be 520
Vpon an Enditement of treſpaſſe 522
Vpon the ſtatute of highwaies, liueries, maintenance, archerie, and vnlawfull games 513
Vpon Recognuſance 514
Vpon the ſtatutes of Labourers 523
Into other ſhires 524. 526
Into ſeuerall ſhires 525
Vpon treaſons and Felonies 527
In a Leete 542
Proceſſe ſtaid. See Superſedeas.
¶ *Proheme of the Author* 1. 376
¶ *Promoters*, See Informers
¶ *Prophefying* 350
To the intent to ſtirre vp rebellion 415
¶ *Puniſhments.*
Eight ſorts of them vſed by the Romans 60
Why they are ordained 59
Three ſorts at this day 60
Of Iuſtices at the Common Law 630
By ignorance of the Iuſtices 630
For embezeling, razing, or altering of Records 631
For taking money to doe his office 631
For procuring one to be indicted 631
Puniſhment by ſtatutes 632
and fee forfeitures 436. 454 613
¶ *Purueiors* 422
See Felonie and Treſpaſſe
¶ *Putting out eyes.* 420. See Felony.

R

¶ *Rape* 256. 421
¶ *Rauiſhment.* 257
Whence it is derined 257
¶ *Recognuſance.*
Taken by preſcription for the Peace 12
By Iuſtices of Aſſiſe 13
By the ſheriffe 13
By the Iuſtices of Gaole deliuerie 13
By the ſteward of the Marſhalſey 13
Who may take it 65
Not pardonable before it bee forfeited 111

Cir-

Circumstances requisite in taking of it 100
What matter it must comprehend 103
104
Forme thereof for the Peace 105.106
For good abearing 122
Certified at the Sessions 143
It cannot bee cancelled after a Release 111
Of an Informer against a suspected person 216
¶ *Record*
What it is 62
The force of it 63
It lyeth in *Seruitio pecoris* 64
Supersedeas is a Record 65
Of a Riot 182
Recording of a Riot 316
Of the peace 388
Day to bring it in 552
¶ *Recusants.* 199.205.296.336.354.363
365.411. &c. 418.419.615.616
617.633
¶ *Regrator* defined 450
¶ *Release.*
Of the partie to him that is arrested for the peace 110
Of the Iustice 110.112
Of the partie 112
Of the King 111
Of another Iustice 110
Of the suertie for good abearing 123
Reliques 617
¶ *Repleuin*, See Bailement
¶ *Request.*
Before arrest 90
¶ *Restitution of Possession.*
The Right (or Title) is not materiall 147
How it may be staied 152
To a Tenant or Copyholder 155
To none but him which had actual possession 155
Of a Common or Rent 146
Without Complaint 147
Death of the Iustice before Restitution 151
Double or crosse restitution 154
To one Iointenant alone
To whom it may be made
To a Lessee for yeares
Vpon the writ of Restitution
The warrant to make restitution
Of stollen goods
¶ *Rescusse*
¶ *Returne*
Of *Supplicauit*
Of a *Certiorari*
Of the writ of Proclamation
¶ *Reward and punishment of*
of Peace 369.370.
See punishments
¶ *Riot*
Defined, and whereof it commeth
A very seed of Rebellion
Things common and considerable
ors
The power of one Iustice therein
The degrees there
Repression thereof by two Iustices
Seuerall sorts of them
When the Iustices must record
Made vpon the Iustices
Inquirie and certifying of Riots
The maner how to record it
The inquirie and forme thereof
¶ *Rivers*
¶ *Rogues and Vagabonds*
Aboue fourteene yeeres of age shall be
brought before the Iustices
Set to worke 208.
A banished Rogue returned
A branded Rogue wandring
Pretending skill in Palmestrie, telling
destinies, &c.
Giuing relefe or harboring them
¶ *Robberie* 258.266.
Defined
Robbers of Orchards
¶ *Robertsmen*
Are mightie theeues
¶ *Rout* defined
Sa

Sacrament of the Lords Supper 416
417. 418
Salmons 454
Sanctuarie 454
whom it may be allowed. See Clergie.
Scauage or Shewage 437
Schoolemaster 369
which commeth not to church 419
to chastise his scholler 127
Seale weights 437
Seisin 191
Seminaries. See Iesuits
Seneca
reason why punishment is vsed 60
Sermon 464
Seruants. See Labourers and Apprentices.
Sessions of the Peace.
description thereof 378
Stile thereof 543
how of they be grounded 379
who shall appoint them 380
power to summon them 381
men by one Iustice 383
where they shall be holden 383
what persons ought to appeare at them 385.
Sessions without Iustices 385
generall, principall, open, or Quarter Sessions 593
how many there be 593
when they ought to be holden 596
how long they shall continue 606
what matters are referred to the Quarter Sessions 606, 607 &c.
generall Sessions 623, and the vse of them 614. Precept to summon them. 626
Sewers
commission of Sewers 367
Sheepe
transported beyond the Seas 227. 435
Sheriffe
to attend the Iustices 395
Trespas
Shoomaker. 465
Sope. See Vessels.
Souldiers 423. 603
Selling horse or harnes 193
Taxation for their reliefe 302
Landing 303
Departing from their Captaines 427
Starre Chamber
The best guide and direction for Iustices of the peace 175
Statutes
Made pro bono pacis, & quieto regimine populi 40
Belonging to the Iustices of Peace. Looke the Table in the end of the 2. booke
Subpœna
Granted by the Lord Chauncellor against a Lord. 81
Subsidie 336
Suggestion. See Information
Supplicavit
How the Iustices of Peace shall returne it 407
Execution thereof 305
Called in old time *Breue de pacis* 85
Supersedeas
Is a Record 65
To discharge a precept 96. 99
The forme the cof by a Iustice 97
Out of a higher Court 99
To discharge Arrest 96
To discharge the summons of the Sessions. 383
After a *Certiorari* 515
To stay processe of Vtlawrie 515
To discharge good abearing 123
To stay Restitution 127
It dischargeth apparance 97
Suretie of Peace
Who may take it 12, 13 &c.
What it is 75
Without request 77
New surety after breach of the peace 114
By procurement of a Iustice 78
Vpon a *Supplecavit*. 57
For whom, and against whom 78
78. &c.

Why

Why it may be required 82
Against a Lord 81
Granted by one Iust. against another 80
Against an impotent man 84
Taken before arreſt 90
At anothers requeſt 77
Precepe for it 85
The maner of it in the Kings Bench and Chancerie 96
What men ſuerties muſt be 100
By gage or pledge 101
By obligation 102
Taken a new after Recogniſ. forfeit 114
How it may be diſcharged, See Releaſe & Superſedeas
¶ *Suſpition.*
How it is conceiued by *Bracton* 119
And ſee the Table 218
¶ *Swearing.* See Othe.

T

¶ *Tanners.* See Leather
¶ *Tauerne keepers* 614
¶ *Teſtimoniall* 474
For Seruingmen 330. See Licence
¶ *Thirdborowes.*
Who they be, and why ſo called 14
¶ *Tillage* 476.610
They that haue the demeſnes of religious houſes muſt keepe tillage 471
¶ *Tile making* 193.468
¶ *Tinkers.* See Licence
¶ *Tiplers and Tipling* 192.193.459
¶ *Tithes* 357
¶ *Tolle* 461
¶ *Toll for horſes* 472
¶ *Trauerſe*
Of an Indictment with force 158.541
Of the Record of a Iuſtice 182
What it is, and whence deriued 540
Of a preſentment 540
Record thereof 543
Triall thereby. 538
¶ *Treaſon*
To extoll forreine power 226
To refuſe the oath of ſupremacy 411
To diſſwade his ſubiects from obedience
To counterfeit the K. money 43.
Enquirable by the Iuſt.
Puniſhable by one Iuſtice
See Eccleſiaſticall & lay cauſes
¶ *Treſpaſſes, and Miſdemeanors enquirable by the Iuſtices of peace in their Seſſions.*
For aſſault and beating
Of the Eſcheator
Of the Sheriffes and their miniſters
Of vnderſheriffes 43.
Of the Gaoler
Of the Coroner
Of the Ordinarie
Of the Parſon, Vicar, or Curat
Of the Clerke of the Peace
Of the Iuſtices Clarke
Of the Clerke of the market
Of Conſtables and Churchwardens
Of Purueyors
Of Informers
Of any Iurour
For giuing liueries of Companie
¶ *Triall*
By Confeſſion
By diſcretion
Vpon Examination
By Certificate
By Trauerſe
By Peeres
¶ *Troupe of men, how many*
¶ *Truce* defined
¶ *Turne of the Sheriffe*
When it muſt be holden

V

¶ *Vagabondi. See Rogues*
¶ *Venire Facias*
To enquire of Forcible entries
Veſſels
For Ale and wine &c. 460.
Of Sope
¶ *Victuals, victuallers* 434.435.
¶ *Vſe* defined by Tully and Bracton
¶ *Vnlawfull aſſemblie* 43.
What it is

Of furors 180
Of women or Infants 180
Of a Corporation 180
Notice thereof within 24 houres 184
¶ *Vnlawfull games* 191.349.479
¶ *Vnlawfull Hunting* 424.449.607
¶ *Vnder sherife*
His authoritie ouershadowed by the pre-
sence of the high sherife 325
His othe See othe, and Trespasse
¶ *Vniuersities* 439
¶ *Vsurie* 449
¶ *Vtlagarie* 521

VV

¶ *VVages*
How Iustices wages are to bee leuied 581
How manie Iustices shall haue wages 628
For knights of the Parliament 512
For seruatits 474.614.632
¶ *VVainlinge* 453.617
¶ *VVarrant*
Must be obeyed 85
The forme thereof vpon a *Supplicauit* 76
The word to find suertie 84
The forme thereof in English 85
What matter it must comprehend 87
The date thereof 88
To whom it may be directed 88
Before what Iustice it is returnable 89
To arest one in another Countie 91
To the sherife to make restitution 166
To summon the Sessions 381
¶ *VVarener.* See Forresters
¶ *VVatches* 440
Vpon the Sea coast 476
¶ *VVatermen* 203
¶ *VVaxe* 198.469
¶ *VVeapons* which be forcible 143
144
¶ *VVearet* 186
¶ *VVeights and Measures* 356.437
460
¶ *VVitchcraft* 227.415
¶ *VVines* 457.458
¶ *VVoad* 457
¶ *VVood* 455.609
¶ *VVooll and woolsellers* 428
¶ *VVoollen yarne* 452
¶ *VVomen* taken against their willes.
256.428

Y

¶ *Yarne.* See Woollen.

Finis Tabulæ

What matter it must concerne 87
The date thereof 88
To whom it may be deduced 88
Before what Iustice it is reducable 89
To arest one in another County 90
To the Sheriffe to make returne 106
To summon the sessions 383

¶ Warren. See Parke.

¶ Watches 446
Vpon the Sea coast 476
¶ Watermen 603
¶ Waxe. 138.469
¶ Weapons which be forbidde 143
144
¶ Weare 172
¶ Weights and Measures 316.437
469
¶ Wherries and Lighters 437.469
¶ Wines 437.438
¶ Wood 437
¶ Wood 455.609
¶ Woolls and woolfells 438
¶ Woollen yarne 472
¶ Women taken against their wills. 256.432

¶

¶ Worsted. See Woollen.

BRITISH MUSEUM

Finis Table

THE DVTIES OF Constables, Borsholders, *Tythingmen, and such o-* ther lowe and Lay Mini- sters of the Peace.

Whereunto be adioyned, the *se-uerall offices of Church Miniſters,* and Churchwardens, and Ouerſeers for the Poore, Surueyours of the highwaies, and Diſtributors of the prouiſion againſt noiſome fowle and vermine.

First collected by WILLIAM LAMBARD *Of Lincolnes Inne Gent.*

And enlarged in the yeare. 1610.

LONDON, Printed for the Companie of Stationers. 1614.

Cum Priuilegio.